

**THE ANTI-POVERTY EFFECTS OF CIVIL LEGAL AID**

**Prepared by**

**Alan W. Houseman, President  
Consortium for the National Equal Justice Library**

**Elisa Minoff, Assistant Professor of History  
University of South Florida St. Petersburg**

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## Introduction

Under a contract from the Public Welfare Foundation, we have reviewed research that involves civil legal aid to learn what we know about how civil legal aid helps reduce and eliminate poverty. The review was undertaken between April 1, 2014 and October 30, 2014. We have reviewed:

1. Research on the various ways that legal services, legal advice and legal information are delivered including the research catalogued on the NLADA maintained website [legalaidresearch.org](http://legalaidresearch.org) and the compilation of research pulled together by the Access to Justice Initiative at the Department of Justice.
2. Studies of Social Return on Investment (SROI).
3. Studies showing cost savings to states from civil legal aid.
4. State and program outcome reports in the five states and several other programs which do them.
5. Studies on the impact of key civil legal aid cases.

In reviewing the research, we focused on what can be learned about how civil legal aid helps low-income people:

1. Obtain greater income and financial security including wages from work, government benefits, tax credits and consumer protections
2. Obtain safe and habitable housing and prevent homelessness;
3. Improve access to mental and physical health care;
4. Prevent or help people escape domestic violence;
5. Obtain critical services that help stabilize individuals and families and prevent child abuse and neglect;
6. Obtain early education and child care, k-12 education and post-secondary education;
7. Improve the communities in which they live; and
8. Otherwise ameliorate the negative impact of poverty.

As this review will show, there is little rigorous research that has actually attempted to document the effect of civil legal assistance on impoverished clients and communities. There is little quantitative research on civil legal aid and anti-poverty, and even less qualitative research. Since the academic research on civil legal aid and the data available on the benefits of legal assistance does not capture everything that legal aid lawyers do to reduce poverty, we have added some

examples from a few civil legal aid programs that illustrate a current focus on anti-poverty advocacy.

The project also sought input from a group of leaders in the civil legal aid and pro bono communities and anti-poverty advocates and scholars. See Appendix A.

At the end we suggest what additional research would be helpful to understanding the anti-poverty impact of civil legal aid.

A bibliography of the research that we reviewed is attached as Appendix B. We very much appreciate the assistance of Charles Greenfield (International Legal Consultant and the former Chief Counsel for the National Legal Aid and Defender Association) in compiling this bibliography.

## Early Vision

Jean and Edgar Cahn, in their seminal article “The War on Poverty: A Civilian Perspective,” argued that “poverty in America is not just a lack of material goods, education and jobs; it is also a sense of helplessness, a defeatism, a lack of dignity and self-respect.”<sup>1</sup> They proposed a neighborhood law firm as one way of enfranchising the poor, giving them representation, and a voice.

Their vision led Sargent Shriver to establish in 1965 at the Office of Economic Opportunity a legal services program. Shriver was a strong believer in the legal services program and said later in his life that though his favorite poverty program was Head Start, “I am proudest of Legal Services because I recognize that it had the greatest potential for changing the system under which people’s lives were being exploited, I was proud of the young lawyers who turned down fat, corporate practices to work for the poor, and proudest of them when they dared to challenge state and federal procedures and win.”<sup>2</sup>

In the 1960s, at the height of the War on Poverty, theorists and practitioners emphasized the ability of lawyers to empower poor people to help themselves. At the National Conference on Law and Poverty, sponsored by the Department of Justice and the Office of Economic Opportunity in 1965 to discuss the role of lawyers in the War on Poverty, longtime social welfare advocate and onetime New Dealer Elizabeth Wickenden argued that lawyers played a necessary role in the War on Poverty by countering the “humiliations and niggardliness of public assistance administration.”<sup>3</sup> In 1970, Stephen Wexler, a staff attorney for the National Welfare Rights Organization, wrote in the *Yale Law Journal* that “the proper job for a poor people’s lawyer is

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<sup>1</sup> Edgar S. and Jean C. Cahn, “The War on Poverty: A Civilian Perspective,” *Yale Law Journal* 73 no. 8 (July 1964): 1317-1352, 1321, available at: [http://www.law.yale.edu/documents/pdf/Intellectual\\_Life/Jean\\_and\\_Edgar\\_Cahn\\_--\\_The\\_Civilian\\_Perspective.pdf](http://www.law.yale.edu/documents/pdf/Intellectual_Life/Jean_and_Edgar_Cahn_--_The_Civilian_Perspective.pdf).

<sup>2</sup> Earl Johnson, Johnson’s Choice of Shriver to Head the War on Poverty, <https://blogs.commonsgorgetown.edu/righton/2014/04/03/johnsons-choice-of-shriver-to-head-the-war-on-poverty/> and *To Establish Justice for All: The Past and Future of Civil Legal Aid in the United States*, Vol.1, pp 64-68 (Praeger, 2014).

helping poor people to organize themselves to change things so that either no one is poor or (less radically) so that poverty does not entail misery.”<sup>4</sup>

The leading theorist on how to use the law to combat poverty during these years was Ed Sparer. Poverty law practitioners and scholars have called Sparer the “Welfare Law Guru,” and the “intellectual architect of the legal strategy of the welfare rights movement.”<sup>5</sup> After serving as the legal director of the path breaking Lower East Side social service agency, Mobilization for Youth, Sparer founded the Columbia Center on Social Welfare Policy and Law, which became the premier “back-up center” to the neighborhood law offices funded during the War on Poverty.<sup>6</sup> In 1964, Sparer observed, quoting Edgar and Jean Cahn, that “The government’s obligation to establish legal recourse for the poor in their dealings with governmental agencies is today merely in the argument stage. It is an obligation, however, which should be assumed, particularly in the war against poverty: partly because the poor themselves need representation; partly because the law is best developed with representation; partly because the war against poverty needs that ‘civilian perspective... of dissent, of critical scrutiny, of advocacy and of impatience’ which lawyers for the poor can bring to it.”<sup>7</sup>

This vision was endorsed by Clint Bamberger, the first director of the Legal Services Program. Speaking to an annual meeting of the National Legal Aid and Defender Association in 1965, Bamberger argued that “Lawyers must be activists to leave a contribution to society. The law is more than a control; it is an instrument for social change. The role of [the] OEO program is to provide the means within the democratic process for the law and lawyers to release the bonds which imprison people in poverty, to marshal the forces of law to combat the causes and effects of poverty. Each day, I ask myself, how will lawyers representing poor people defeat the cycle of poverty?”<sup>8</sup> A year later, Bamberger told the National Conference of Bar Presidents: “We cannot be content with the creation of systems of rendering free legal assistance to all the people who

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3 Elizabeth Wickenden, “Administration of Welfare Rights,” in *Conference Proceedings: National Conference on Law and Poverty, Washington, DC June 23-25, 1965*, available at: <http://babel.hathitrust.org/cgi/pt?id=uc1.b3973124;view=1up;seq=5>. (Also see Sparer’s talk in the same proceedings).

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Stephen Wexler, “Practicing Law for Poor People,” 79 Yale L.J. 1049, 1053 (1970).

5 Martha F. Davis, *Brutal Need: Lawyers and the Welfare Rights Movement, 1960-1973* (New Haven: Yale University Press, 1993); Sylvia A. Law, Some Reflections on *Goldberg v. Kelly* at Twenty Years, 56 Brook. L. Rev. 805, 819 (1990). See also Gary F. Smith, Remembering Edward Sparer: An Enduring Vision for Legal Services,” *Clearinghouse Review*, September-October 2005, available at: <http://povertylaw.org/clearinghouse/article/remembering-edward-v-sparer-enduring-vision-legal-services>

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Sparer was also General Counsel for the National Welfare Rights Organization and a Professor Law at Yale Law School and the University of Pennsylvania Law School. He also conducted the Health Law Project at Pennsylvania Law School.

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Quoted in Davis, *Brutal Need*, 22.

need but cannot afford a lawyer's advice. This program must contribute to the success of the War on Poverty. Our responsibility is to marshal the forces of law and the strength of lawyers to combat the causes and effect of poverty. Lawyers must uncover the legal causes of poverty, remodel the system which generates the cycle of poverty and design new social, legal and political tools and vehicles to move poor people from deprivation, depression, and despair to opportunity, hope and ambition.”<sup>9</sup>

How did legal services theorists and practitioners define poverty? The most commonly cited poverty threshold today was first developed by an economist for the Social Security Administration during the War on Poverty.<sup>10</sup> Perhaps because the poverty measure was so new in the 1960s, there was much less focus then on the line itself. Alternative definitions of poverty were widely discussed. As Earl Johnson, the second Director of OEO legal services, noted in his 1974 history of the program, many conceived of “poverty as a failure to participate fairly in the nation’s total affluence,” not just a lack of goods and services.<sup>11</sup>

During the War on Poverty, legal services attorneys attempted to combat poverty through a combination of casework, helping individual poor people with their legal problems, and “law reform” efforts, bringing large class-action suits challenging statutes, regulations, and policies that adversely affected the poor and engaging in policy advocacy at the local, state and federal levels. Early observers noted that individual casework preoccupied many legal services offices in their first years. Under the term of Earl Johnson, the second director of OEO legal services, however, “law reform” became the chief goal of federally-funded civil legal aid. In the late 1960s, OEO made large investments in national and state back up centers, national publications to describe poverty law development (e.g. Clearinghouse Review) training and technical assistance programs, as well as the Reginald Heber Smith Fellowship program, which sent recent law school graduates, known as “Reggies,” to legal services programs across the country to provide, as Alan Houseman has observed, a law reform ‘spark’ to the programs in which they were placed.”<sup>12</sup>

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<sup>8</sup> Quoted in Earl Johnson Jr., *Justice and Reform: The Formative Years of the OEO Legal Services Program* (New York: Russell Sage Foundation,1974), 75.

<sup>9</sup>

Quoted in Earl Johnson Jr., *Justice and Reform: The Formative Years of the OEO Legal Services Program* (New York: Russell Sage Foundation,1974), 120.

<sup>10</sup> Fisher, Gordon. “[The Development of the Orshansky Poverty Thresholds and their subsequent History as the Official U.S. Poverty Measure.](#)” May 1992. Recently, scholars and policymakers have revisited the question of how best to measure poverty. The National Academy of Sciences published an influential report recommending a new approach to measuring poverty in 1995. The report is available [here](#). The Census Bureau introduced a Supplemental Poverty Measure, largely based on the NAS report, in 2011. On the Supplemental Poverty Measure, see Kathleen Short, “[The Research Supplemental Poverty Measure: 2012](#)” *Current Population Reports* November 2013. For a helpful infographic comparing the two poverty measures see: [http://www.census.gov/how/infographics/poverty\\_measure-how.html](http://www.census.gov/how/infographics/poverty_measure-how.html).

<sup>11</sup>

Earl Johnson, *Justice and Reform*, 196.

<sup>12</sup> Alan Houseman, “Political Lessons: Legal Services for the Poor—Commentary” 83 Geo L.J. 1669 1994-1995 at 1681-2.

Legal Services attorneys won some early Supreme Court cases that expanded access to public benefits and continue to make their way into law school casebooks.

- *King v. Smith*, 392 US 309 (1968), benefits could not be withheld because of the occasional presence of a “substitute father.”
- *Shapiro v. Thompson*, 394 US 618 (1969), striking down residence requirements for public assistance as unconstitutional.
- *Goldberg v. Kelly*, 397 US 254 (1970), requiring that welfare departments provide a “fair hearing” before benefits are terminated.

Frances Fox Piven and Richard Cloward famously attributed the growth in the welfare rolls in the late 1960s to these law reform cases. “There is no way of measuring the exact impact of these major legal reforms on the welfare rolls,” they wrote in *Regulating the Poor* in 1971. “All that can be said,” they continued, “is that it has been considerable. Persons knowledgeable in the public welfare field generally believe that at least 100,000 persons annually had been denied aid because of residence laws. Attorneys and welfare rights organizers in the South estimated tens of thousands of families were denied aid under employable-mother’s rules. Once such rules were weakened or abandoned, approval rates rose, and the rolls grew.”<sup>13</sup>

Susan Lawrence in her book *The Poor in Court* echoed what Earl Johnson had reported in his first book that welfare decisions increased dollars going to the poor. “The Department of Health, Education and Welfare estimated that three LSP cases won on the merits – *King v. Smith*, *Goldberg v. Kelly*, and *Shapiro v. Thompson* – resulted in a \$400 to \$500 million per year increase in public assistance payments. Between 1967 and 1971, total public assistance payments jumped from \$7.8 billion to \$17.7 billion. Certainly, LSP’s transfer program cases were not solely responsible for this increase, but they contributed to it.”<sup>14</sup>

These seminal cases were hardly the only cases brought to the Supreme Court by legal services attorneys. The study by Professor Susan Lawrence reviewed the 110 Supreme Court cases between 1966 and 1974 that were brought by legal services attorneys. Legal services attorneys secured victory in 62% of those cases, second only to the record of the Solicitor General of the United States.<sup>15</sup>

But it was not only these famous Supreme Court victories that led to systems change for the poor during the War on Poverty. A wide range of cases, many of which never made it to the Supreme Court, had a major impact on the earnings, income, and benefits that poor people received, as well as their privacy and autonomy or “personal freedom,” as Earl Johnson put it at the time. To name just a few

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13 Frances Fox Piven and Richard Cloward, *Regulating the Poor: The Functions of Public Welfare* (New York: Vintage, 1993 (1971)), 309.

14 Susan E. Lawrence, *The Poor in Court: The Legal Service Program and Supreme Court Decision Making* (Princeton: Princeton University Press, 1990), 89.

15 *Id.* at 70-71).

- In 1967, California Rural Legal Assistance filed a suit on behalf of domestic farm workers to stop the federal government from importing foreign workers to pick the nation’s crops. CRLA won the suit, and the decision was estimated to have added over \$2 million to the incomes of domestic farm workers that year because of the increased competition for workers.<sup>16</sup>
- The Food Research and Action Center in New York filed a series of lawsuits in the early 1970s which eventually led to requirements that every state operate either a commodity distribution program or a food stamp program in each of its counties, and that the federal government release funds for the Women and Infant Children (WIC) nutritional program.<sup>17</sup> A Department of Commerce report later commented that legal services lawsuits were one of series of forces leading “to increase the number of participating areas from 838 to 2027, the number of food stamp recipients from 1,832,000 to 10,567,000 and the Federal investment in food stamps from \$296 million to 2.7 billion” between 1967 and 1971.<sup>18</sup>
- Legal services attorneys also won judgments requiring public housing authorities to give tenants notice and a hearing before evicting them, requiring California to equalize funding between wealthy and poor school districts, and constraining governors from reducing medical payments to the poor.<sup>19</sup>

The early work of legal services attorneys under the War on Poverty, in short, helped establish public assistance as an entitlement. Jim Weill, who started practicing at what became the Legal Assistance Foundation of Chicago in 1969, told us that legal services attorneys made public welfare departments realize that they were subject to the law, and had to follow regulations and statutes.<sup>20</sup> An early report of the cases brought by the Legal Assistance Foundation of Chicago documents the series of cases the organization brought against the city’s Department of Public Welfare, charging it with delays in processing various types of welfare applications. As part of the enforcement of the court decisions that resulted, legal services attorneys worked with agencies to establish procedures that recognized state and federally-funded public assistance as an entitlement.<sup>21</sup>

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<sup>16</sup> Johnson, *Justice and Reform*, 202.

<sup>17</sup> See FRAC timeline, <http://frac.org/about/frac-programs-and-initiatives/>; on how one plaintiff perceived the WIC lawsuit, see Annelise Orleck, *Storming Caesar’s Palace: How Black Mothers Fought Their Own War on Poverty* (Boston: Beacon Press, 2005), 224-225.

<sup>18</sup>  
See Earl Johnson, *Justice and Reform*, 351, fn. 117.

<sup>19</sup> See Earl Johnson, *Justice and Reform*, 359, fn. 182.

<sup>20</sup> Conversation with Jim Weill, June 16, 2014.

<sup>21</sup>  
See interviews with Jim Weill and Liz Schott. On the work of the Legal Assistance Foundation of Chicago and the litigation brought to counter delays in the processing of AFDC and Aid to the Aged, Blind, and Disabled, starting with *Rodriguez v. Swank* 318 F. Supp. 289 (N.D. Ill. 1970) and *Jordan v. Swank* 472 F. 2d 985 (7<sup>th</sup> Cir. 1973), see “Summaries of All Published Federal and State Opinions (with

Today, many proponents of civil legal aid argue that legal services are necessary not to reduce poverty, but to expand access to justice. This dichotomy is false. An access to justice framework and an anti-poverty framework are not in conflict but complimentary.

The Declaration of Findings and Purposes of the Legal Services Corporation Act recognized the need “to provide equal access to the system of justice” and the need to provide legal assistance to “assist in improving opportunities for low-income persons.”

Early in LSC’s history, LSC undertook the Delivery System Study<sup>22</sup> which included “impact on the poverty community” as one of the four criteria that would be used to compare various delivery systems. The other criteria were cost, quality and client satisfaction. In the study “impact” was defined as “achievement, or expected achievement of relatively permanent improvement or avoidance of deterioration in the legal rights or basic living conditions of significant segments of the eligible population.”<sup>23</sup> The measure looked at major litigation, legislative and administrative advocacy, group representation and other activities to further the interests of poor people and examined not only the amount of impact work but its effect on the client population.<sup>24</sup>

More recently, in 2007 LSC promulgated LSC Performance Criteria to guide both evaluations of LSC programs and applications for LSC funding. These performance criteria specifically look to see if the “program maximizes the use of its resources and achieves in its representation and work the greatest possible benefits and systemic solutions for other low-income people who may face similar legal problems, and for the eligible population as a whole.”<sup>25</sup> This criterion tracks a number of Standards promulgated by the American Bar Association in 2006 such as Standard 2.6 on Achieving Lasting Results for Low Income Individuals and Communities.<sup>26</sup>

The anti-poverty vision lives on in many legal services offices and even those organizations that frame their mission in terms of access to justice do significant work, both to reform systems and

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Citations) in Cases Involving Clients of The Legal Assistance Foundation of Chicago, 1970-1981” February 1982, Sheldon Roodman, Executive Director, Legal Assistance Foundation of Chicago. Courtesy of Jim Weill, on file with author.

22 See LSC, *The Delivery Systems Study: A Policy Report to the Congress and the President of the United States* (June 1980).

23  
Id. at 132

24  
A more recent examination of impact is found in a recent article by John Bouman, “Six steps to Broader Impact,” *Clearinghouse Review*, Vol. 48 , No, 5-6 (September-October 2014).

25 See LSC, *Performance Criteria* (2007) at 20.

26  
See American Bar Association, *Standards for the Provision of Civil Legal Aid* (2006).

help individual clients, with the end goal of reducing poverty.<sup>27</sup> As Florence Wagman Roisman, who started working in D.C.’s Neighborhood Legal Services Program as a staff attorney in 1967, said recently, “In 2011, four decades after the War on Poverty, many legal services programs, staff, funders, and supporters treasure and embrace the idea that their programs seek to end poverty—or, if that is unattainable, at least to address and minimize poverty.”<sup>28</sup>

Consider the mission statements of a handful of legal services organizations.

- Legal Services of Northern California (LSC Funded) proudly embraces an anti-poverty agenda in its mission statement: “The mission of Legal Services of Northern California is to provide quality legal services to empower the poor to identify and defeat the causes and effects of poverty within our community efficiently utilizing all available resources.”<sup>29</sup>
- Columbia Legal Services in Washington describes its mission as follows: “Columbia Legal Services advocates for people who face injustice and poverty. We seek to achieve social and economic justice for all, using policy reform, litigation, and innovative partnerships to reveal and end actions that harm the communities we serve.”<sup>30</sup>

Even many organizations that do not use the word “poverty” in their mission statement have a fundamentally anti-poverty view of their mission.

- Land of Lincoln Legal Assistance Foundation (LSC Funded) describes its mission as follows: “to provide low income and senior residents of central and southern Illinois with high quality civil legal services in order to obtain and maintain their basic human needs. Through advice, representation, advocacy, education, and collaboration, we seek: to achieve justice for those whose voices might otherwise not be heard; to empower individuals to advocate for themselves; and to make positive changes in the communities we serve.”<sup>31</sup>

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<sup>27</sup> We do not intend to minimize the ongoing debate among legal services attorneys about whether they should see their work primarily through an anti-poverty or access-to-justice lens. But there seems to be much more agreement between the two sides than their impassioned writing at first glance suggests. For this debate, see Gary F. Smith, “Poverty Warriors: A Historical Perspective on the Mission of Legal Services,” 45 Clearinghouse Rev. 34 (2011); Catherine Carr, “Legal Services and an Anti-Poverty Agenda: A Conflict of Visions and the Need for their Reconciliation” 14 U. Pa. J.L. & Soc. Change 353; and Debra Gardner and John Pollock, “Civil Right to Counsel’s Relationship to Antipoverty Policy” Clearinghouse Review 45, no. 3-4 (July-August 2011). See also, Peter Edelman, “A Challenge for Lawyers: What We Must Do to End Poverty and Reduce Inequality,” Clearinghouse Review 42, No. 3-4, (July – August 2008), Todd Belcore, “A King’s Blueprint for Change,” 48 No. 5-6 (September-October 2014) and Rebecca Vallas, “A Renewed Vision of Civil Legal Services as Antipoverty Work,” Center for American Progress <http://talkpoverty.org/2014/06/03/vallas/>

<sup>28</sup>

Quoted in Catherine Carr, “Legal Services and an Anti-Poverty Agenda: A Conflict of Visions and the Need for their Reconciliation” 14 U. Pa. J.L. & Soc. Change 353.

<sup>29</sup> Mission statement available at: <http://about.lsnr.net/about-2/mission/>.

<sup>30</sup> Mission statement available at: <http://columbialegal.org/about/locations>

<sup>31</sup> Mission statement available at: <http://lollaf.org/>.

- The Legal Aid Foundation of Los Angeles (LSC Funded) describes its mission as follows: “LAFLA seeks to achieve equal justice for poor and low-income people in greater Los Angeles. We change lives through direct representation, systems change and community education.”<sup>32</sup>

The “equal justice” framing that many legal services organizations use signifies much more than access to justice.

- Greater Boston Legal Services describes its mission more simply in access to justice terms, but has a clear anti-poverty focus: “Our mission is to provide free legal assistance to as many low-income families as possible to help them secure some of the most basic necessities of life.”<sup>33</sup> Lest anyone think Greater Boston Legal Services is only interested in casework services to individual clients, the organization has an entire section on its website highlighting its “impact advocacy.”<sup>34</sup>

The anti-poverty vision remains important to civil legal aid, whether it is explicitly in an organization’s mission statement or implicit in the sort of cases its lawyers choose and the challenges they bring.

Moreover, lawyers and policymakers outside the civil legal aid movement continue to recognize the importance of legal services to fighting poverty. In 2012, lawyers attending a national pro bono summit agreed that lawyers can do more than any other profession to combat poverty.<sup>35</sup> In 2012, the White House Domestic Policy Council and the Department of Justice launched the Legal Aid Interagency Roundtable to raise awareness about the need for legal services within the federal government. In a letter discussing the activities of the Roundtable this year, Attorney General Eric Holder and Director of the Domestic Policy Council Cecilia Munoz observed that “The Roundtable’s work is premised on the recognition that applying the power of legal services to meet Federal objectives creates more opportunities for Americans to grab the next rung on the ladder out of poverty.”<sup>36</sup>

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32 Mission statement available at: <http://www.lafla.org/mission.php>

33 Mission statement available at: <http://www.gbls.org/about/mission>

34

Greater Boston Legal Services, Impact Advocacy: <http://www.gbls.org/advocacy-milestones>

35 David A. Lash, “Finding the Next Big Idea to Fight Poverty,” *Dialogue* (American Bar Association), Winter 2012, Vol. 15, Issue 3. Lash observes that attendees of the National Probono Summit agreed “that lawyers can do more to combat poverty than can any other group of professionals; that the legal profession can open the doors of democracy to those most in need of its protections; that only the justice system can ensure the basics of life to those most in need; and that a representative judicial system will not happen without lawyers.”

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Message from Attorney General Eric Holder and Director of the Domestic Policy Council Cecilia Muñoz, available at: <http://www.justice.gov/atj/legalaid/>.

The question, then, is how and under what circumstances civil legal aid successfully reduces poverty. This paper evaluates the extant literature on legal services. It considers studies, data sets, and reports that provide some information about the economic benefits of civil legal aid—how legal services can help clients connect to public benefits that provide direct cash assistance and subsidies for housing and medical care, access private market goods, or improve earnings through work.

A growing body of literature has documented that lawyers make a difference—that is, that representation improves outcomes in civil trials and hearings. Below we consider those studies that explicitly consider how representation helps impoverished people improve their case outcomes, and life outcomes.<sup>37</sup>

## **The Research**

Given the centrality of the anti-poverty vision to the mission and practice of civil legal assistance organizations today, it is surprising how little rigorous research has actually attempted to document the effect of civil legal assistance on impoverished clients and communities.

There is little quantitative research on civil legal aid, and even less qualitative research. The quantitative research that does exist primarily focuses on casework services. The question driving this research is often not whether or how legal aid benefits their clients personally, but whether representation has an effect on case outcomes.

There is data from several sources that also provides some insight into the anti-poverty impact of civil legal aid. Five state IOLTA programs (Florida, Maryland, New York, Virginia and Texas) collect outcome data from the programs they fund and several programs in other states (e.g., Legal Aid Society of Cleveland) collect similar outcome data. All consider how the data reveals the benefits to the clients served by the programs.

In addition, individual civil legal aid programs as well as state-wide access to justice and IOLTA programs have conducted over 22 studies on the “social return on investment” (SROI) or the economic benefits of civil legal aid in order to make the case to state legislatures that their services are necessary. Many of these reports estimate the dollar figures of the benefits that legal services attorneys help their clients access. The reports contain aggregate data, so it is difficult to discern how many individuals these benefits helped, and the extent to which the benefits ameliorated their poverty, but the data is suggestive nonetheless.

Many of the economic benefit reports have been conducted by Ken Smith and his colleagues at Resources for Greater Programs, and they follow a simple methodology. To briefly describe their methodology: they take the number of cases closed involving a particular benefit or income

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<sup>37</sup> For the literature on the impact of representation generally, see Rebecca Sandefur, “Elements of Expertise: Lawyers’ Impact on Civil Trial and Hearing Outcomes,” (forthcoming, *American Sociological Review*, courtesy of Sandefur, on file with author); Russell Engler, “When Does Representation Matter?” in Estreicher & Radice, ed., *Beyond Elite Law: Access to Civil Justice for Americans of Average Means* (forthcoming, Cambridge University Press, courtesy of Engler, on file with author); Russell Engler, “Connecting Self-Representation to Civil Gideon: What Existing Data Reveal About When Counsel is Most Needed,” 37 *Fordham Urb. L. J.* 37 (2010).

support—for example, child and spousal support, SSI/SSD Benefits, and Medicare/Medicaid Benefits—and consider the share that were likely successful, based on previous surveys of legal aid success rates. Then they multiply the number of cases they estimated to be successful by the average annual benefit for each benefit or support. The result is an estimate of the amount of money that legal services attorneys helped their clients receive.

### *Housing*

Housing is the most widely studied area of legal services practice. It is also one of the most common categories of cases brought by legal services attorneys. For LSC-funded organizations in 2013, 27.4% of their caseload involved housing related cases.

2013 LSC-Eligible Cases Closed by Case Type <sup>38</sup>		
Case Category	Number of Cases	Percent
Federally Subsidized Housing	36,335	4.8%
Homeownership/Real Property (Not Foreclosure)	8,476	1.1%
Private Landlord/Tenant	116,453	15.5%
Public Housing	11,068	1.5%
Mobile Homes	3,505	0.5%
Housing Discrimination	1,006	0.1%
Mortgage Foreclosures (Not Predatory Lending/Practices)	19,550	2.6%
Mortgage Predatory Lending/Practices	807	0.1%
Other Housing	10,414	1.4%

Observational studies consistently show that tenants who are fully-represented in eviction cases are more likely to be able to stay in their homes. Jessica Steinberg, for example, considered the effect of full, limited, and no representation in eviction cases in San Mateo County in 2009. Steinberg tracked 100 tenants who faced eviction and received limited assistance from the Legal Aid Society of San Mateo County, including help drafting a responsive appeal and negotiating in pre-trial settlement conferences; 300 tenants facing eviction who received no legal help; and 20 tenants facing eviction who received full representation from Stanford Community Law Clinic. Steinberg found that tenants with full representation had better legal and personal outcomes than tenants with limited or no representation. Fourteen percent of tenants receiving no legal aid maintained possession of their homes, compared to 18% of tenants receiving unbundled assistance and 55% of tenants receiving full representation. (The difference between those receiving no legal assistance and unbundled assistance was not statistically significant, but the

<sup>38</sup> From Legal Services Corporation 2013 Fact Book, available at: <http://lsc.gov/about/lsc-fact-books/about-legal-aid/lsc-numbers-2013> at p.19.

difference between full representation and no representation was). For those tenants who lost possession, full representation roughly doubled the number of days a tenant had before he or she needed to move out, compared to unbundled assistance and no legal aid. Finally, fully represented tenants were much more likely to receive monetary compensation from landlords, rather than vice versa. While tenants who received unbundled legal services made payments to their landlords in 71% of cases and tenants who received no assistance paid their landlords 61% of the time, tenants who were fully represented never paid their landlords. No tenants receiving limited assistance and only one unassisted tenant received monetary compensation from their landlords, compared to 55% of fully represented tenants. (Most of these tenants received compensation to defray costs of moving out of the unit, but two retained possession and were nonetheless compensated for their litigation costs).<sup>39</sup>

Another observational study published this year replicates Steinberg's findings. The study of the San Francisco civil counsel pilot program found that tenants fully represented by pro bono attorneys were much more likely to be able to stay in their homes than those provided limited representation. The study also observed that there were benefits to clients from representation that were not immediately quantifiable: "It is difficult to quantify the value to an individual tenant of meaningful representation at a time when she is poised to lose her home and the main source of stability in her life. This is particularly the case for tenants with disabilities, substance abuse problems, and other conditions that may be aggravated by the loss of such stability. The presence of legal support can be important not only for navigating the legal system, but also for providing emotional and psychological well-being from added resources and avenues for help."<sup>40</sup>

The few extant randomized studies seem to reinforce the findings of such observational studies that representation helps people stay in their homes. The first randomized study, conducted by Carroll Seron, Martin Frankel, Gregg Van Ryzin and Jean Kovath in the mid-1990s, considered whether representation helped tenants facing eviction prevail in their cases before New York City Housing Court. The study focused on case outcomes, not personal outcomes, because Seron et al. did not have the funds to follow up with clients and track their personal outcomes after their cases closed. The study authors randomized tenants appearing before New York City Housing Court into two groups, one that was offered representation by pro bono attorneys trained by the Legal Aid Society Community Law Offices, and one that was not. (Fifty-six percent of those offered representation would up being represented in court, compared to only 4% of those not offered representation). The study tracked the case outcomes of both groups, and found that judgments were issued against 32% of treatment group (that is, those offered representation) and 52% of control. Warrants of eviction were issued in 24% of treatment group, and 44% of control. They conclude that "the findings from this experiment clearly show that when low-income tenants in New York City's Housing Court are provided with legal counsel, they experience significantly more beneficial procedural outcomes than their pro se counterparts."<sup>41</sup>

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<sup>39</sup> Jessica Steinberg, "In Pursuit of Justice? Case Outcomes and the Delivery of Unbundled Legal Services," *Georgetown Journal of Poverty Law and Policy*, 18 no. 3 (2011)

<sup>40</sup> John and Terry Levin Center for Public Service and Public Interest Law, Stanford Law School, "San Francisco Right to Civil Counsel Pilot Program, Documentation Report" May 2014, available at: <http://www.sfbos.org/Modules/ShowDocument.aspx?documentid=49157>.

Two recent randomized studies support Seron et al.'s findings, to a point. James Greiner and his colleagues conducted both of these randomized trials. In the first, published in the *Harvard Law Review* in 2013, Greiner et al. compare “unbundled” or limited assistance representation, to full representation of clients facing eviction in a Massachusetts District Court. Unlike previous studies, they considered the socio-economic outcomes of clients as well as the legal outcome of their cases. Their findings were significant. While approximately two-thirds of fully-represented tenants retained possession of their housing units at the end of the summary eviction proceeding, only about one-third of tenants who received unbundled assistance did. In cases involving nonpayment of rent or serious monetary counterclaims, the net financial effect of the litigation was more significant for tenants with full representation than those who received limited assistance. Fully-represented tenants were not obligated to pay an average net of 9.4 months of rent per case (relative to what the evictor alleged to be due) while tenants who received limited assistance were not obligated to pay an average of 1.9 months rent.<sup>42</sup>

The second study by Greiner and his colleagues considered the offer of full and limited assistance representation to tenants facing eviction in a Massachusetts Housing Court. They have not published the results of this study.<sup>43</sup> Those in the treatment group, receiving full representation, received an average of about 12.4 hours of lawyer time, while those in the control group, receiving limited assistance, received an estimated 1.7 hours of lawyer time. This Housing Court Study, in contrast to Greiner et al.'s District Court study described above, found no statistically significant evidence that a traditional attorney client relationship had any effect on the likelihood that an occupant would retain possession or on the financial consequences of the dispute over that of limited assistance. One could interpret the results to mean either that the limited assistance program was very effective, or that the full representation was ineffective. In discussion, however, the study authors suggest that there may have been something unique to the court or the style of representation offered by the attorneys that limited the efficacy of full representation. A number of close readers of both studies believe the findings confirm the significance of representation, despite the less impressive results of the Housing Court lawyers.<sup>44</sup>

In addition to the above research, the economic benefit studies further indicate the impact of civil legal aid housing advocacy on ameliorating poverty. The Social Return on Investment Analysis for Colorado Legal Services indicated that legal representation in 2012 resulted in \$2,097,340 in immediate direct financial benefits and 3,892,743 in long-term financial benefits (such as savings

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<sup>41</sup> D. Carroll Seron, Martin Frankel & Gregg Van Ryzin, *The Impact of Legal Counsel on Outcomes of Poor Tenants in New York City's Housing Court: Results from a Randomized Experiment* 35 *Law & Soc'y Rev.* 419-434 (2001)

<sup>42</sup> Greiner et al. “The Limits of Unbundled Legal Assistance” 126 *Harv. L. Rev.* 901 2012-2013 (District Court Study)

<sup>43</sup> D. James Greiner et al., *How Effective Are Limited Legal Assistance Programs? A Randomized Experiment in a Massachusetts Housing Court* (Sept. 1, 2012) (unpublished manuscript), available at <http://papers.ssrn.com/sol3/papers.cfm?abstractid=1880078>.

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Boston Bar Association Task Force on the Civil Right to Counsel, “The Importance of Representation in Eviction Cases and Homelessness Prevention: A Report on the BBA Civil Right to Counsel Housing Pilot” (March 2012), available at: <http://www.bostonbar.org/docs/default-document-library/bba-crtc-final-3-1-12.pdf>.

on costs for emergency housing and family assistance that result from enforcement of landlord tenant law).<sup>45</sup> In 2012 in Texas, legal aid organizations obtained \$235,302 in back award and lump sum settlements in landlord tenant judgments.<sup>46</sup> A 2011 study of the cases completed in 2009-2010 by legal aid programs in Virginia found that \$1,105,125 was generated through back award and monthly benefits for affirmative landlord tenant cases; and \$1,477,907 saved in negotiated housing/landlord settlements.<sup>47</sup> A 2013 study in Iowa considering 2011 housing cases found that the direct financial benefits to low-income Iowa clients included \$114,599 in federally subsidized housing, \$735,494 in homeowner/real property disputes, \$124,749 in private landlord/tenant disputes, and \$8,184,36 in mortgage foreclosure cases.<sup>48</sup>

Civil legal aid lawyers help keep people housed, and as research has shown, housing has wide-ranging social benefits. As Barbara Sard and Jeff Lubell at the Center on Budget and Policy Priorities observed in 2000, “many housing and welfare professionals believe that poor families need a stable housing situation to focus more fully on finding and retaining employment. Reflecting on site visits to 21 nonprofit organizations involved in self-sufficiency efforts in 13 states, Rachel G. Bratt of Tufts University and Langley G. Keyes of MIT noted that their ‘field work underscored the importance of housing being secured first, before people could pay serious attention to non-housing issues....Housing is at the core of family stability.’”<sup>49</sup>

In particular, housing subsidies can help people move to areas where there are more jobs, better schools, and other services and amenities that might help them escape poverty. One of the best sources of data on the potential benefits of housing subsidies stems from the class-action lawsuit that ACLU attorneys filed against the Chicago Housing Authority in 1966, *Gatreaux v. Chicago Housing Authority* that eventually forced Chicago to desegregate public housing and offer public housing residents vouchers to move to better neighborhoods. Of the families who received housing vouchers as a result of the 1976 Supreme Court consent decree in *Gatreaux*, some moved within the city, while others moved to suburban communities. For the families who moved to suburbs, parents were more likely to be employed, and the children were less likely to

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45 See Community Services Analysis LLC, Colorado Legal Services, *Social Return on Investment Analysis for the year ended December 31, 2012*.

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See Texas Access to Justice Foundation, *Self-Assesed Closed Cases* (2012).

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See Kenneth Smith and Andrea Brewer, The Resource for Great Programs, Inc., *Economic Impacts of Civil Legal Aid Organizations in Virginia: Civil Justice for Low-Income People Produce Ripple Effects that Benefit Every Segment of the Community*, September 16, 2011.

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Iowa Legal Aid, *The Economic Impact of Iowa Legal Aid*, 2013.

49 See Barbara Sard and Jeff Lubell, “The Value of Housing Subsidies to Welfare Reform Efforts,” February 24, 2000, available at: <http://www.cbpp.org/cms/index.cfm?fa=view&id=1593>.

drop out of high school, more likely to enroll in a college-track curriculum, and more likely to enroll in college than those who moved within the city.<sup>50</sup>

### *Domestic violence*

For LSC-funded organizations in 2013, the largest share of cases closed (32.9% or 249,843) were in the area of family law. These cases involved a wide range of disputes, but 43,699 of them, or 5.7 percent of the total cases closed, involved domestic abuse.<sup>51</sup>

Studies have found that providing legal services to victims of domestic violence actually reduces the incidence of domestic violence. A landmark study by Amy Farmer and Jill Tiefenthaler in 2003 found that the increased provision of legal services for victims of intimate partner abuse was one of three primary causes for the marked decline in domestic violence in the 1990s. As they put it, “while shelters, hotlines, and counseling programs targeted at battered women are found to have no significant impact on the likelihood of domestic abuse, the availability of legal services in the county of residence has a significant, negative, effect on the likelihood that an individual woman is battered. Given that the provision of legal services for victims of domestic violence has increased dramatically in the 90s, we conclude that legal services provision is one likely significant factor in explaining the decline.” They suggest that legal services may “present women with real, long-term alternatives to their relationships” by helping them with protective orders, custody, and child support.<sup>52</sup>

By reducing incidences of domestic violence, legal services attorneys have a direct effect on victims’ earnings and income. The Center for Disease Control and Prevention has calculated that domestic violence results in the loss of “nearly 8.0 million days of paid work—the equivalent of more than 32,000 full-time jobs—and nearly 5.6 million days of household productivity” every year in the United States.<sup>53</sup> By reducing violence, legal services raises incomes.

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50 James E. Rosenbaum, “Changing the Geography of Opportunity by Expanding Residential Choice: Lessons from the Gautreaux Program,” *Housing Policy Debate* 6, no. 1 (1995), available at: [http://content.knowledgeplex.org/kp2/kp/text\\_document\\_summary/scholarly\\_article/refiles/hpd\\_0601\\_roosenbaum.pdf](http://content.knowledgeplex.org/kp2/kp/text_document_summary/scholarly_article/refiles/hpd_0601_roosenbaum.pdf). See also Barbara Sard, “Housing Vouchers Should be a Major Component of Future Housing Policy for the Lowest Income Families,” available at: <http://www.huduser.org/periodicals/cityscpe/vol5num2/sard.pdf>.

51 From Legal Services Corporation 2013 Fact Book, available at: <http://lsc.gov/about/lsc-fact-books/about-legal-aid/lsc-numbers-2013> at p.19.

52 Farmer and Tiefenthaler, “Explaining the Recent Decline in Domestic Violence” (April 2003), available at: <http://www.nasams.org/DMS/Documents/1195248210.25/Explaining%20Decline%20in%20Domestic%20Violence.pdf>

53 Centers for Disease Control & Prevention, *Costs of Intimate Partner Violence Against Women in the United States* (2003), available at: <http://www.cdc.gov/violenceprevention/pdf/IPVBook-a.pdf>.

In addition to the above research, the economic benefit studies further indicate the impact of civil legal aid domestic violence advocacy on ameliorating poverty. The Social Return on Investment Analysis for Colorado Legal Service indicated that legal representation in 2012 in domestic violence cases resulted in \$12,577,624 in immediate direct financial benefits and \$8,864,713 in long-term financial benefits.<sup>54</sup> A 2011 study of the cases completed in 2009-2010 by legal aid programs in Virginia found that \$1.8 million was saved as a result of the prevention of domestic violence.<sup>55</sup> A 2013 study of 2011 cases in Iowa found that direct financial benefits to low-income Iowa clients was \$131,360 in domestic abuse cases.<sup>56</sup>

As Karen Lash at the Department of Justice has observed, “Each prevented injury or loss of a home, in turn, reduces government expenditures in responding to crime, injuries, homelessness, as well as more obvious family and community losses that are social and emotional as well as financial.”<sup>57</sup>

### *Benefits and Income Support*

Despite recent rollbacks in public assistance and food stamps, the safety net remains an important support for poor Americans, and lawyers continue the work they began during the War on Poverty to help poor people access public benefits and other income supports.<sup>58</sup>

In 2013, income maintenance cases made up 12.1% of the caseload for LSC-funded organizations.

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54 See Community Services Analysis LLC, Colorado Legal Services, *Social Return on Investment Analysis for the year ended December 31, 2012*.

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See Kenneth Smith and Andrea Brewer, The Resource for Great Programs, Inc., *Economic Impacts of Civil Legal Aid Organizations in Virginia: Civil Justice for Low-Income People Produce Ripple Effects that Benefit Every Segment of the Community*, September 16, 2011.

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Iowa Legal Aid, *The Economic Impact of Iowa Legal Aid*, 2013.

57 Karen Lash, “Right Partners at the Right Time”

<http://www.justice.gov/atj/legalaid/right-partners-at-the-right-time-mie-article.pdf>

58 For data on how safety net programs have helped reduce poverty over the last five decades, see Arloc Sherman, Sharon Parrott, and Danilo Trisi, “Chart Book: The War on Poverty at 50, Overview,” January 7, 2014, available at: <http://www.cbpp.org/cms/index.cfm?fa=view&id=4069>. Recent analyses show that the safety net cuts poverty in half and has long term impacts on children and families. See Testimony of Robert Greenstein Before the House Budget Committee (January 28, 2014) <http://www.cbpp.org/files/1-28-14pov-testimony.pdf> and Liana Fox, Irwin Garfinkel, Neeraj Kaushal, Jane Waldfogel, and Christopher Wimer, “Waging War on Poverty: Historical Trends in Poverty Using the Supplemental Poverty Measure,” Columbia Population Research Center, December 2013, <http://cupop.columbia.edu/publications/2013>. For an overview of the successes and failures of the war on poverty see Martha J. Bailey and Sheldon Danziger, *Legacies of the War on Poverty*, Russell Sage (2013). From Legal Services Corporation 2013 Fact Book, available at: <http://lsc.gov/about/lsc-fact-books/about-legal-aid/lsc-numbers-2013> at p.19.

2013 LSC-Eligible Cases Closed by Case Type <sup>59</sup>		
Case Category	Number of Cases	Percent
TANF	7,665	1.0%
Social Security (Not SSDI)	2,193	0.3%
Food Stamps	18,827	2.5%
SSDI	9,375	1.2%
SSI	26,232	3.5%
Unemployment Compensation	17,149	2.3%
Veterans Benefits	900	0.1%
State and Local Income Maintenance	5,723	0.8%
Other Income Maintenance	3,888	0.5%

The research on legal services attorneys' public benefits work is limited. Herbert Kritzer has analyzed data on Social Security disability and unemployment appeals in Wisconsin and found that represented claimants were consistently more successful in their appeals than unrepresented clients.<sup>60</sup>

Studies of SSI (Supplemental Security Income) and SSDI (Social Security Disability Income) also shed some light on the effectiveness of legal representation in connecting clients to benefits. One recent study examined the impact of representation by both lawyers and non-lawyer professionals at the initial stage of the process of applying for benefits for both SSI and SSDI.<sup>61</sup> The study was not a randomized control trial, but its findings are nonetheless suggestive. According to the study which examined data from 2007-2011, only 14 percent of SSDI claimants were represented at the initial stage in fiscal year 2011. Of those, attorney representation accounted for nine percent of the cases, while non-attorney representation was involved in about five percent of the cases. Roughly five percent of SSI claims were represented at the initial stage, less than one percent were represented by attorneys while a little over three percent were represented by non-attorneys. A substantial majority of claimants applying for SSDI and SSI benefits did not have any type of representation at the initial stage of adjudication. The study compared the success at the initial level for third party represented SSDI and SSI cases and the agency's overall initial level rates granting benefits. From 2007 to 2010, overall initial allowance rates were typically in the 36-37 percent range for SSDI, while the SSDI allowance rate for represented claims was only slightly higher, typically ranging from 37-41 percent. During this period the initial allowance rates were in the 32-34 percent range for SSI, however, while the SSI

<sup>59</sup> From Legal Services Corporation 2013 Fact Book, available at <http://lsc.gov/about/lsc-fact-books/about-legal-aid/lsc-numbers-2013> at p.19.

<sup>60</sup> Herbert M. Kritzer, *Legal Advocacy: Lawyers and Non Lawyers at Work* (1998), described in Engler, "When does Representation Matter."

<sup>61</sup> Social Security Advisory Board, *Filing for Social Security Disability Benefits: What Impact Does Professional Representation Have on the Process at the Initial Level* (Sept. 2012) [http://www.ssab.gov/PublicationViewOptions.aspx?ssab\\_pub=118](http://www.ssab.gov/PublicationViewOptions.aspx?ssab_pub=118)

allowance rate for represented claims was significantly higher – ranging from 60-64 percent, almost double the overall allowance rate.

A study of Social Security Disability claimants who appealed their initial denials of assistance suggests that representation at later stages of the application process might have a more significant effect on receipt of SSDI. This study, which, like the one previously discussed, was not randomized, considered Social Security Disability Claims before Administrative Law Judges in 2013. Seventy-seven percent of the hearings involved a claimant representative (who could be a lawyer or non-lawyer). Results from the analysis of claimant representative shows that in general, allowance rates were higher when a claimant representative was present (64%) than when a representative was not present (47% allowance).<sup>62</sup>

One of the most widely discussed studies of the last several years has been James Greiner and Cassandra Pattanayak’s randomized study of representation in unemployment insurance appeals. Greiner and Pattanayak examined the effect of an offer of assistance by students working at the Harvard Legal Aid Bureau to clients involved in unemployment appeals. They found that the offer of assistance had no significant effect on case outcomes. But there are clear limits to this study. The lawyers offering representation were law school students, rather than experienced legal services attorneys, and the question being tested was not whether representation mattered, but whether the *offer* of representation mattered. In addition, many of the claimants that were in the control group did in fact receive representation from civil legal aid programs and did quite well as a result of that representation. From these results, it is difficult to conclude anything one way or the other about the effect of civil legal aid on case outcomes.<sup>63</sup>

While there are few rigorous studies on the public benefits, tax, or child support work that legal services attorneys engage in, the reports and datasets on the “social return on investment” (SROI) and the economic benefits of civil legal aid do provide concrete information that suggests the anti-poverty impact of civil legal aid public benefits work.

In New Hampshire, for example, researchers estimated that the state’s three major legal services programs—New Hampshire Legal Assistance, Legal Advice & Referral Center, and New Hampshire Pro Bono—brought in \$14.3 million of SSI/SSD benefits for elderly and disabled people, \$8.6 million of Medicare Benefits for people with disabilities, \$1.7 million in federal tax

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62 Harold Krent & Scott Morris, *Achieving Greater Consistency in Social Security Disability Adjudication: An Empirical Study and Suggested Reforms* (March 2013), available at: [http://www.acus.gov/sites/default/files/documents/Achieving\\_Greater\\_Consistency\\_Final\\_Report\\_4-3-2013\\_clean.pdf](http://www.acus.gov/sites/default/files/documents/Achieving_Greater_Consistency_Final_Report_4-3-2013_clean.pdf). See particularly pages 48-50 of Statistical Appendix for analyses showing higher allowance rates when claimants have representation. [http://www.acus.gov/sites/default/files/documents/Statistical\\_Appendix\\_Final\\_4-3-2013\\_clean\\_0.pdf](http://www.acus.gov/sites/default/files/documents/Statistical_Appendix_Final_4-3-2013_clean_0.pdf)

63 D. James Greiner & Cassandra Wolos Pattanayak, *Randomized Evaluation in Legal Assistance: What Difference Does Representation (Offer and Actual Use) Make?*, 121 YALE L.J. 2118, 2125 (2012). For interesting responses to this study, see Steven Eppler-Epstein, “The Greiner Studies: Randomized Investigation of Legal Aid Outcomes” 46 Clearinghouse Rev. 43 (2012); Steven Eppler-Epstein, “Passion, Caution, and Evolution: The Legal Aid movement and Empirical Studies of Legal Assistance” 126 Harv. L. Rev. F. 102 (2013); Jeffrey Selbin, Jeanne Charn, Anthony Alfieri & Stephen Wizner, “Service Delivery, Resource Allocation, and Access to Justice: Greiner and Pattanayak and the Research Imperative,” Yale Law Journal 122 (2012) 45.

refunds and savings for low-income clients, \$12.8 million in child and spousal support in 2011. New Hampshire Legal Assistance, the state's largest legal services organization, alone helped clients receive \$14.0 million in SSI/SSD benefits for the elderly and disabled, \$8.4 million in Medicare benefits for people with disabilities, \$1.5 million in child and spousal support, \$11,544 in one-time Food Stamps payments, and \$962 in monthly benefits from Food Stamps. They also note that New Hampshire Legal Aid's systemic advocacy in electric, gas, and telephone utilities brought an estimated \$21 million in electric and gas utility discounts in 2012.<sup>64</sup>

An Evaluation of seven Equal Justice Works AmeriCorps Veterans Legal Projects completed in 2013 found that the projects recovered \$1,567,130 in retroactive veterans' benefits. Those seeking benefits collected \$422,130, with veterans awarded an average of \$2465.25 in monthly benefits or \$29,583 a year.<sup>65</sup>

Civil legal aid programs have also developed innovative technology to help low-income families obtain Earned Income Tax Credit Benefits. I-CAN! E-FILE, a nationwide web-based tax preparation service developed by the Legal Aid Society of Orange County, has returned \$796,000,000 in federal and state credits and refunds to low-income families since its inception in 2003. In 2012, for example, I-CAN returned \$167,767,231 in benefits.<sup>66</sup>

Staff of Resources for Greater Programs and other authors of economic benefit reports regularly caution that these numbers do not begin to capture the total benefits to clients, since, as they observe, many benefits to clients are difficult to quantify. The Pennsylvania economic impact report for 2012 lists some of unquantifiable benefits of civil legal aid: savings to communities and families related to crime prevention and reduction, the benefits of keeping children in school "whose attendance would otherwise have been interrupted by homelessness and/or domestic abuse," as well as the increased income of clients who were assisted with employment related-cases.<sup>67</sup>

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64 Ken Smith, "The Economic Impact of Civil Legal Services in New Hampshire: Achieving Justice and Boosting the Economy" Sponsored by the New Hampshire Supreme Court Access to Justice Commission, Funded by the American Bar Association. February 21, 2013, available at: [http://www.courts.state.nh.us/access/2013\\_report/Economic\\_Impact\\_Report.pdf](http://www.courts.state.nh.us/access/2013_report/Economic_Impact_Report.pdf).

65 See John A. Tull & Associates, *Equal Justice Works AmeriCorps Veterans Legal Projects Evaluation* (February 2013) at 14 (on file with Alan Houseman). The seven projects were Indiana Legal Services, Inner City Law Center Homeless Veterans Project, Legal Aid of West Virginia, Legal Aid Society of the District of Columbia, Northwest Justice Project, Public Counsel and San Diego Public Defender.

66 Earned Income Tax Credit (EITC) is one of our nation's most effective anti-poverty programs. The program, helped more than [6.5 million](#) Americans—including [3.3 million](#) children—avoid poverty in 2012. In addition to reducing financial hardship in the near term, extensive research shows that the EITC is also an investment in the future health and wealth of our nation. For example, a more generous EITC substantially [reduces the incidence of low birth weight](#), a key indicator of both infant health and later-life outcomes. See <http://www.cbpp.org/files/policybasics-eitc.pdf>

67 "A Report on Pennsylvania's Access to Justice Act," FY 2004-2011: Prepared for Pennsylvania IOLTA Board, An Organization of the Supreme Court of Pennsylvania, May 2012."

## Consumer Protection

Consumer or finance cases were the fourth most common type of case for LSC-funded organizations in 2013, making up 11.0 percent of these organization's caseloads.

2013 LSC-Eligible Cases Closed by Case Type <sup>68</sup>		
Case Category	Number of Cases	Percent
Bankruptcy/Debtor Relief	29,161	3.8%
Collection (Incl Repossession/Deficiency/Garnishment)	36,233	4.8%
Contracts/Warranties	5,800	0.8%
Collection Practices/Creditor Harassment	2,511	0.3%
Predatory Lending Practices (Not Mortgages)	197	0.0%
Loans/Installment Purchase (Not Collections)	857	0.1%
Public Utilities	3,130	0.4%
Unfair & Deceptive Sales & Prac (Not Real Property)	964	0.1%
Other Consumer/Finance	4,610	0.6%

There is very limited research on consumer cases. A 2013 Maryland study of consumers debtors sued by debt buyers found that consumer debtors who were not represented by attorneys had their cases dismissed or judgments entered in their favor 23% of the time. By contrast, consumer debtors assisted by volunteer attorneys in the Pro Bono Resource Center of Maryland Consumer Protection Project achieved a positive outcome such as a judgment in favor of the defendant or a dismissal 71% of the time.<sup>69</sup>

The Economic Benefit studies that have been done all point to a significant impact of civil legal aid consumer work. For example, the Social Return on Investment Analysis for Colorado Legal Services in 2012 found that the program's consumer legal work resulted in \$9,365,525 in immediate direct financial benefits and \$1,617,034 in long-term consequential financial benefits.<sup>70</sup> In 2012 in Texas, legal aid organizations obtained \$1,655,184 in back awards and

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<sup>68</sup> From Legal Services Corporation 2013 Fact Book, available at: <http://lsc.gov/about/lsc-fact-books/about-legal-aid/lsc-numbers-2013> at p.19.

<sup>69</sup> See Peter Holland, *Evaluation of the Pro Bono Resource Center Consumer Protection Project* (2013) at 6-7.

<sup>70</sup> See Community Services Analysis LLC, Colorado Legal Services, *Social Return on Investment Analysis for the year ended December 31, 2012*.

lump sum settlements in consumer judgments.<sup>71</sup> A 2011 study of cases completed in 2009-2010 by the legal aid programs in Virginia, \$276,647 was generated through back award and monthly benefits for affirmative consumer cases; \$14,789,882 was saved in bankruptcy protection and \$1,597,005 saved in negotiated consumer settlements.<sup>72</sup>

### Health

In 2013, 3.6% of the cases brought by LSC-funded programs were in the area of health.

2013 LSC Eligible Cases Health <sup>73</sup>	Number of Cases	Percent
Medicaid	18,597	2.5%
Medicare	1,495	0.2%
Children’s Health Insurance Programs	344	0.0%
Home and Community Based Care	818	0.1%
Private Health Insurance	263	0.0%
Long Term Health Care Facilities	483	0.1%
State and Local Health	1,580	0.2%
Other Health	3,991	0.5%

Everyone gets sick, but the poor carry a disproportionate burden of disease. A large body of research has shown the extensive connections between poor health and poverty. As research has shown, reducing poverty helps improve health. Legal services lawyers are increasingly working directly with healthcare professionals to improve clients’ health and life outcomes. Informal coordination between legal and health services has existed for some time, but the first formalized medical-legal partnership emerged from Boston Medical Center’s pediatric department in 1992. Over the past twenty years, health centers across the country have established their own medical-legal partnerships, often hiring legal services attorneys directly to meet the legal needs of their patients. The attorneys help mitigate patient’s poverty by helping them connect directly to government benefits and meeting their other legal needs.

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See Texas Access to Justice Foundation, *Self-Assesed Closed Cases* (2012)

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See Kenneth Smith and Andrea Brewer, The Resource for Great Programs, Inc., *Economic Impacts of Civil Legal Aid Organizations in Virginia: Civil Justice for Low-Income People Produce Ripple Effects that Benefit Every Segment of the Community*, September 16, 2011.

73 From Legal Services Corporation 2013 Fact Book, available at: <http://lsc.gov/about/lsc-fact-books/about-legal-aid/lsc-numbers-2013> at p.19.

One study of a medical-legal partnership in California found significant improvements in patients' income and wellbeing as a result of the partnership. The study examined the work of the Peninsula Family Advocacy Program, a collaboration between the Lucile Packard Children's Hospital at Stanford, the Ravenswood Family Health Center in East Palo Alto, California and the Legal Aid Society of San Mateo County. The goals of the program are to "improve the health of low-income children by linking legal advocacy and clinical pediatrics." The program provides free legal services and social service referrals to patient families at the hospital and health center, and trains health care providers to identify and understand the legal needs of low-income families and address systemic inequities. The 36-month prospective cohort study considered the impact of clinic-and hospital-based legal services. The study sample was recruited from families who received services between December 1, 2004 and June 30, 2007. Patients were referred to legal services, and if they met the income and eligibility criteria and had an identifiable social or legal issue they were enrolled in the study. Participants received ongoing legal services or were referred to appropriate resources. Follow up was conducted via telephone 6 months after case closing.

Attorneys with the Peninsula Family Advocacy Program addressed a wide variety of patients' legal needs, including denial and/or discontinuance of government health insurance, food stamps, welfare, family law and domestic violence issues, access to special education, and housing issues. The sort of legal services provided ranged from brief services, such as writing a letter to a landlord, to full legal representation. Patients who needed assistance in special education or guardianship cases were referred to pro bono attorneys. Almost half of the issues handled by the program were related to health insurance (48.4% of cases), followed by government benefits (40.6% of cases), housing (33.9% of cases), immigration (33.1% of cases) and family violence (8.7%). A comparison of pre- and post-intervention survey responses showed significant increases in receipt of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) (35.2% versus 50.0%), CalWorks (0.0% versus 9.3%), Food Stamps (13.0% versus 29.6%), Supplemental Security Income (SSI) (5.6% versus 16.7%) and Child Support (7.4% versus 16.7%). Almost two-thirds of parents (66.1%) thought that their children's health and well-being had improved because of the Peninsula Family Advocacy Program.<sup>74</sup>

A comprehensive review of the literature on medical-legal partnerships has found that other programs have had similarly significant anti-poverty effects.<sup>75</sup> One study examined by the reviewers found that a medical-legal partnership serving the needs of cancer patients generated nearly \$1million by resolving previously denied benefit claims.<sup>76</sup> Another study of a

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74 Dana Weintraub et al, "Pilot Study of Medical-Legal Partnerships to Address Social and Legal Needs of Patients" *Journal of Health Care for the Poor and Underserved* 21 (2010): 157-168.

75 Tishra Beeson et al, "Making the Case for Medical-Legal Partnerships: A Review of the Evidence," February 2013 National Center for Medical-Legal Partnership, Department of Health Policy, School of Public Health and Health Services, George Washington University February 2013, available at: <http://legalaidresearch.files.wordpress.com/2013/04/medical-legal-partnership-literature-review-february-2013.pdf>.

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Beeson et al., citing Rodabaugh, K. J., Hammond, M., Myszka, D., & Sandel, M. (2010). A medical-legal partnership as a component of a palliative care model *Journal of Palliative Medicine*, 13(1), 15-18. doi: 10.1089/jpm.2009.0203.

medical-legal partnership in Illinois helped relieve patients of \$4 million in health care debt and claim \$2 million in additional awarded Social Security benefits.<sup>77</sup> Still another study of home-visiting interventions found them to have positive effects for prenatal and postpartum patients: including better prenatal behaviors, better pregnancy outcomes, lower rates of child abuse and neglect, and higher rates of maternal employment.<sup>78</sup> A study of asthmatic adults aided by a medical-legal partnership found a 91% reduction in emergency department visits and hospital admissions and a 91% reduction in asthma severity after the medical-legal intervention.<sup>79</sup> Finally, another study of cancer patients served by a medical-legal partnership found that 75% reported reduced stress, 30% reported an increase in treatment adherence, and 25% reported an increase in keeping appointments, after interacting with a legal services attorney.<sup>80</sup>

The reduction in stress after interacting with a legal services attorneys has been observed by other studies of medical-legal partnerships. A study of the Tucson Family Advocacy Program, a medical-legal partnership at a family medicine clinic, found that patients who self-administered the Perceived Stress Scale test (PSS-10) and the Measure of Yourself Concerns and Wellbeing test both before and after receiving services reported a significant decrease in stress and increase in wellbeing after receiving services.<sup>81</sup>

In addition to the above research, the economic benefit studies further indicate the impact of civil legal aid health advocacy on ameliorating poverty. The Social Return on Investment Analysis for Colorado Legal Service indicated that legal representation in 2012 resulted in \$251,075 in

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Beeson et al., citing Teufel, J. A. & Werner, D. & Goffinet, D. & Thorne, W. & Brown, S. L. & Gettinger, L. (2012). Rural Medical-Legal Partnership and Advocacy: A Three-Year Follow-up Study. *Journal of Health Care for the Poor and Underserved* 23(2), 705-714. The Johns Hopkins University Press. Retrieved September 26, 2012, from Project MUSE database.

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Beeson et al., citing Williams DR, Costa MV, Odunlami AO, Mohammed SA. Moving upstream: how interventions that address the social determinants of health can improve health and reduce disparities. *J Public Health Manag Pract.* 2008 Nov;14 Suppl:S8-17. doi: 10.1097/01.PHH.0000338382.36695.42.

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Beeson et al., citing O'Sullivan, Mary, Brandfield, Julie, Hoskote, Sumedh, Segal, Shiri, Chug, Luis, Modrykamien, Ariel, & Eden, Edward. (2012). Environmental Improvements Brought by the Legal Interventions in the Homes of Poorly-Controlled Inner-city Adult Asthmatic Patients: A Proof-of-Concept Study. *Journal of Asthma*, 49(9), 911-917. doi: 10.3109/02770903.2012.724131.

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Beeson et al., citing Fleishman SB, Retkin R, Brandfield J, Braun V. The attorney as the newest member of the cancer treatment team. *J Clin Oncol.* 2006 May 1;24(13):2123-6.

81 Anne M. Ryan et al, "Pilot Study of Impact of Medical-Legal Partnership Services on Patients' Perceived Stress and Wellbeing" *Journal of Health Care for the Poor and Underserved* 23 (2012): 1536–1546.

immediate direct financial benefits.<sup>82</sup> A 2011 study of cases completed in 2009-2010 by the legal aid programs in Virginia found that \$11,385,923 in total Medicaid benefits was received by clients.<sup>83</sup> A 2013 study of 2011 cases in Iowa, found that direct financial benefits to low-income Iowa clients included \$508,740 for Medicare and Medicaid.<sup>84</sup>

### *Child Welfare*

In the field of child welfare, researchers have taken the unusual step of attempting to evaluate the effects of legal services lawyers' law reform work. Mark Courtney and his colleagues have considered Columbia Legal Service's campaign to reform the child welfare system in Washington State. For over a decade, Columbia Legal Services has been engaged in a class action settlement to ensure that children in foster care receive the care and services they are constitutionally guaranteed. Along with the National Center for Youth Law and private counsel, Columbia has worked on and monitored the settlement, which mandated "improvements in placements, mental health and other services to children, assistance for foster parents, and enhanced services by child welfare workers." Courtney and his colleagues have found that "the settlement has spurred dramatic increases in the number of children getting intake health screening and the number of times foster children are visited by their state caseworker. It has also decreased multiple placements, lowered caseloads (which impacts safety), decreased the number of siblings who are split up in foster care and increased the number who visit one another if they have been split up, and enhanced educational stability." As part of its advocacy around child welfare issues, Columbia Legal Services called for and the Washington Legislature "enacted a new law requiring that foster children have the maximum sibling interaction possible and caregivers shall not limit contact or visitation as a sanction for a child's behavior." The approximately 10,000 foster children who are in the system are all affected by Columbia's advocacy.

Interestingly, as byproduct of their research on Washington State, Courtney and his colleagues have found that enhanced parental representation increased the rate of family reunification, and, strikingly, nearly doubled the likelihood of adoption and doubled the likelihood of legal guardianship. "Our findings suggest that, far from serving as an obstacle to adoption and guardianship, the availability of adequate legal counsel might facilitate a parent's acceptance of the need to find another permanent home for their child if they cannot reunify."<sup>85</sup>

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82 See Community Services Analysis LLC, Colorado Legal Services, *Social Return on Investment Analysis for the year ended December 31, 2012*.

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See Kenneth Smith and Andrea Brewer, The Resource for Great Programs, Inc., *Economic Impacts of Civil Legal Aid Organizations in Virginia: Civil Justice for Low-Income People Produce Ripple Effects that Benefit Every Segment of the Community*, September 16, 2011.

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Iowa Legal Aid, *The Economic Impact of Iowa Legal Aid*, 2013

85 Mark E. Courtney & Jennifer L. Hook, Evaluation of the Impact of Enhanced Parental Legal Representation on the Timing Of Permanency Outcomes for Children in Foster Care, 34 *Children & Youth Servs. Rev.* 1337 (2012).

## *Custody*

Civil legal aid represents clients in many custody cases. LSC data for 2013 indicates that 9.4% of the cases involve custody and visitation.<sup>86</sup> Two studies of Maryland custody cases by the Women’s Law Center of Maryland – one in 2004<sup>87</sup> and a follow-up in 2006<sup>88</sup> – tracked both case outcomes and custody outcomes. The 2004 study found that representation of parents by a lawyer made it far more likely that spousal support or alimony would be awarded.<sup>89</sup> In the later study, researchers affirmed that “when neither party is represented, both parties ‘do the worst’ in terms of financial outcomes.”<sup>90</sup> The later study also looked specifically at the impact of representation on custody outcomes. When the mother alone was represented, sole custody to mother was the most prevalent outcome (54.8%) and when neither parent was represented sole custody to mother was the most prevalent outcome (41%). When father alone was represented, joint legal custody with physical custody to mother was 29.6% and or when both parents were represented, joint legal custody with physical custody to mother was 44.7%.<sup>91</sup> “When one party in a contested custody case is represented by an attorney and the other is not, chances are good that the outcome will be sole custody to the party with an attorney.”<sup>92</sup>

## *Immigration*

Many legal aid programs (most of which are not funded by LSC) offer focused assistance to immigrants trying to regularize their status or become naturalized citizens. By doing this, they also help these immigrants connect to better jobs and benefits. A study of Canal Alliance’s Immigration Legal Services Program in Marin County, California, examined the assistance its attorneys provided to immigrants over a four-year period, from 2009-2012. During the four-year period, Canal Alliance obtained or maintained work authorization or green cards for 479 Marin

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<sup>86</sup> From Legal Services Corporation 2013 Fact Book, available at: <http://lsc.gov/about/lsc-fact-books/about-legal-aid/lsc-numbers-2013> at p.19.

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Women’s Law Center of Maryland, Inc., *Custody and Financial Distribution: An Empirical Study of Custody and Divorce Cases Filed in Maryland During Fiscal Year 1999* (2004).

<sup>88</sup>

Women’s Law Center of Maryland, Inc., *Families in Transition: A Follow-Up Study Exploring Family Law Issues in Maryland* (2006)

<sup>89</sup>

Supra note 84 at 32.

<sup>90</sup>

Supra note 85 at 47.

<sup>91</sup>

Id. at 47-49

<sup>92</sup>

Id. at 55.

County residents. They helped 432 women obtain U visas, which are offered to victims of crimes and provide them work permits and access to certain public benefits. And they enabled 155 Marin County residents to become U.S. citizens. Manuel Pastor and others at the Center for the Study of Immigrant Integration at the University of Southern California have found that attaining work authorization and becoming naturalized have concrete economic benefits. They found that in California, unauthorized Latino immigrants make between \$1.04 and \$8.14 less per hour than authorized Latino immigrants. They estimated that “by increasing the wages of undocumented Latino workers in California, the state would effectively lower the poverty rate for the families of unauthorized Latino workers from 25.1 percent to 22.7 percent and the child poverty rate for this group from 32.1 percent to 29.1 percent.”<sup>93</sup> In another study based on nationwide data, Pastor and his colleagues estimate that an immigrants’ earnings increase by around 8 to 11 percent after naturalization.<sup>94</sup> Applying Pastor and his colleague’s findings to the data from Canal Alliance’s Immigration Legal Services Program, staff at The Resource for Great Programs, Inc. found that Canal Alliance’s work to help immigrants attain work authorization and naturalize brought millions of dollars in wages into these families and communities.<sup>95</sup>

### **Anti-Poverty Work Not Captured by the Research**

The academic research on civil legal aid and the data available on the benefits of legal assistance does not capture everything that legal aid lawyers do to reduce poverty. Most notably, it does not capture civil legal services attorney’s continued focus on law reform and anti-poverty work.<sup>96</sup> Many civil legal aid programs have law reform units or other specialized units that focus on systemic advocacy.<sup>97</sup>

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93Manuel Pastor et al., “The Economic Benefits of Immigrant Authorization in California,” (January 2010) available at: [http://csii.usc.edu/documents/chirla\\_v10\\_small.pdf](http://csii.usc.edu/documents/chirla_v10_small.pdf)

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Manuel Pastor and Justin Scoggins, “Citizen Gain: The Economic Benefits of Naturalization for Immigrants and the Economy,” (December 2012) available at: <http://csii.usc.edu/CitizenGain.html>.

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Ken Smith, Kelly Thayer, and Kathy Garwold, “An Assessment of the Economic and Societal Impacts of Canal Alliance’s Immigration Legal Services, A Report Prepared for The Marin Community Foundation,” *The Resource for Great Programs*, October 14, 2013.

96The work of civil legal aid is part of a broad anti-poverty agenda pursued by the broader policy community. See, e.g., Peter Edelman, *So Rich, So Poor: Why It’s So Hard to End Poverty in America* (2012); Half in Ten, *Resetting the Poverty Debate: Renewing our Commitment to Shared Prosperity*, November, 2013, at [www.halfintention.org](http://www.halfintention.org); Testimony of Robert Greenstein Before the House Budget Committee (January 28, 2014) <http://www.cbpp.org/files/1-28-14pov-testimony.pdf>; Testimony of Olivia Golden Before the House Budget Committee (Jun 10, 2014), *A Progress Report on the War on Poverty: Reforming Federal Aid* <http://www.clasp.org/resources-and-publications/publication-1/06-10-14-House-Budget-Testimony-O-Golden.pdf>

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A unique approach is utilized by the Legal Aid Society of D.C., which established the Appellate Advocacy Project in 2003 to pursue an affirmative poverty law reform agenda before the District of Columbia Court of Appeals. The Project participates in cases that have the potential to influence the development of decisional law in a manner

Civil legal aid programs are:

- Helping client connect to benefits, services, employment and housing that help lift them out of poverty.
- Helping clients avert costs that could drive them into poverty or increase their existing poverty.
- Helping clients stabilize their lives so that they can move out of poverty.
- Helping clients who are entangled in the administrative systems and thus prevented from receiving benefits and services to which they are entitled.

This section of the report presents a set of examples of the current work of civil legal aid programs, both LSC funded and non-LSC funded, that illustrates these four basic anti-poverty strategies. We interviewed and reviewed materials of a small number of civil legal aid programs that were doing anti-poverty work.<sup>98</sup> These are by no means the only examples of anti-poverty work of civil legal aid programs. Indeed, these examples are truly the tip of the iceberg of what is going on today in civil legal aid.

In litigation before state and federal courts and in administrative advocacy, legal services attorneys still attempt to prevent and reduce poverty and reform the law. For example, in 2014 alone, Legal Services of Northern California, an LSC funded program, litigated cases that had the potential to affect thousands of low-income Californians. Attorneys represented clients in suits claiming wrongful termination of UI benefits, arguing for a right to counsel for low-income litigants in child custody cases, challenging deductions from General Assistance grants for medical care, challenging a city's failure to comply with statutory affordable housing obligations, challenging a county's policy of automatically denying General Assistance to anyone who has been denied SSI at the hearing level, as well as cases with the potential to set important precedent, including forcing a mortgage servicer to comply with an agreed upon modification of mortgage, and requiring landlords to assist tenants with disabilities, to name just a few.<sup>99</sup> LSNC has also recently filed an administrative appeal to HUD to challenge the policy of a local housing authority that limits housing opportunities for families that include people with disabilities.

Legal services programs also directly engage in policy work. The Western Center on Law and Poverty sponsored or co-sponsored eight bills signed by the governor in the 2014 legislative

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favorable to litigants living in poverty. Over the past 10 years, the Legal Aid Society has participated in hundreds of appellate cases. To read a list of the cases and the subject areas of law that those cases influenced, visit <http://www.legalaiddc.org/issues/appellate.html>.

<sup>98</sup> These included: Advocates for Basic Legal Equality in Toledo, Ohio; Legal Aid Society of Cleveland; Legal Aid Society of Cincinnati; Community Legal Services in Philadelphia; Columbia Legal Services in Seattle, Washington; Land of Lincoln Legal Aid; Legal Services of Northern California; Western Center on Law and Poverty in LA; Greater Boston Legal Services; Sargent Shriver National Center on Poverty Law; Legal Service of Greater Miami; Legal Aid Foundation of Los Angeles; Legal Aid Bureau of Maryland; Legal Aid Justice Center (Charlottesville, Virginia); and Legal Aid Society of San Diego.

<sup>99</sup> "Impact Advocacy of Legal Services of Northern California: Report to the California Interest on Lawyer Trust Account Program," June 2014, courtesy of Gary Smith, Executive Director, Legal Services of Northern California.

session that helped secure housing, healthcare and a strong safety-net for low-income Californians.

Legislative advocacy by civil legal aid programs is often in coalition with other groups. Scott Cummings and Gregory Volz have recently noted a trend toward coalition-based advocacy among legal services practitioners. Working in coalition with other community organizations, they observe, legal services organizations have played a crucial role in passing living-wage ordinances, augmenting resources for affordable housing, and promoting accountability in redevelopment projects.<sup>100</sup> Some legal services attorneys engage in this coalition advocacy because it fulfills the goals of their organization’s “community lawyering” model. As community lawyers they serve as advisers to local community groups and offer legal support that is often transactional in nature. Cummings and Volz observe that by employing transactional representational techniques, lawyers can “negotiate the ‘deal’ and broker positive economic benefits similar to the strategies utilized by private corporate counsel.”<sup>101</sup>

In coalition with other community organizations, legal services attorneys have worked on issues that complement and fill gaps left by their litigation and administrative advocacy.

### *Public Benefits*

Many legal services attorneys continue to testify before legislatures and otherwise advocate for the public benefits that are crucial to their clients.

Liz Schott, who is currently a fellow at the Center on Budget and Policy Priorities, noted that when she worked as a legal services attorney in Washington State between 1978 and 1997, she and others at Evergreen Legal Services brought a series of lawsuits against the state social services department for delays in processing various public benefit applications. In the early 1990s, state legislators attributed increases in the number of people receiving public assistance to the work of access litigation, which was no doubt responsible for some of the increase, if not as much as legislators imagined.

More recently, the Western Center on Law and Poverty and its allies convinced California Legislature and Governor to increase CalWORKS grants for the first time in a long time. In response to a demand letter from the Western Center, 11 California counties increased their General Assistance benefits by \$40 per month. In response to lobbying by legal aid organizations and their allies, the California legislature also removed barriers to food assistance and welfare for children, unemployed and disabled veterans, and pregnant and breastfeeding women.

Community Legal Services of Philadelphia recently recommended that Pennsylvania continue its “Heat and Eat” program to prevent significant reductions in monthly food stamp benefits to thousands of low-income households, including many elderly and disabled individuals. A federal law change had threatened “Heat and Eat,” but Community Legal Services advocacy with the

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100 Cummings and Volz, “Toward a New Theory of Community Economic Development.”

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Cummings and Volz, “Toward a New Theory of Community Economic Development,” 166.

Pennsylvania Department of Public Welfare, working with a coalition of allies, was successful in preserving the program.

The Sargent Shriver National Center on Poverty Law (hereafter Shriver Center) in Chicago led a successful effort to greatly expand access to Illinois' Temporary Aid to Needy Families cash assistance program. This model legislation changed eligibility rules and front-end practices, making the program more responsive to increased need created by the recession.

Even as legal services attorneys work to expand access to benefits, they continually fight budget cuts. While this work may not be as rewarding as affirmatively improving programs, it is just as important in helping low-income families.<sup>102</sup>

### *Housing*

Legal services attorneys not only do a significant amount of individual casework on housing-related issues, but they also work toward broader reforms to create more emergency shelters, affordable housing, and public housing.

Much of legal services attorneys' community lawyering activity and policy work focuses on housing issues.

- Legal Services of Northern California has worked with a number of organizations to expand emergency shelter options in their region, and is currently representing a non-profit homeless advocacy group trying to build an emergency homeless shelter in Tehama County, California.
- Columbia Legal Services is currently working on a project with the goal of placing homeless elementary and secondary school students (roughly 26,000 students statewide) in permanent housing by working with schools, housing providers, public policy advocates and legislators to allow schools to use existing funding for homeless children to stably house students and their families within their original school district.<sup>103</sup>
- The Legal Services of Greater Miami retains a full time attorney to work with community development corporations and help them with various legal issues, including "creation of a homeowners association, various joint venture agreements, housing code violations, property tax exemptions, subsidiary creation, loan closings, sales contracts and dispute resolution."<sup>104</sup>

Many legal services attorneys represent tenant organizations in public and affordable housing, to ensure their rents do not increase, and to help them preserve affordable housing.

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102 From CRLA Annual Report.

103 Email from Columbia Legal Services.

104 John Little, "Legal Advocacy for Community Building in South Florida," *Clearinghouse Review* 37, no. 3-4 (July-August 2003), 133.

- Greater Boston Legal Services, for example, works with Boston Housing Authority tenant organizations and advisory bodies when they request assistance to revise bylaws or to organize campaigns. They also participate in the Housing Justice Network’s Public Housing and Voucher Workgroup, and the national convening of public and assisted housing residents with HUD, and they comment on major HUD rulemaking that affects public housing residents as necessary.<sup>105</sup>
- The Western Center on Law and Poverty and the Legal Aid Foundation of Los Angeles spent a year in meetings, discussions, and research, and in the end were able to convince the City Council of Santa Monica to lower rents by several hundred dollars from current levels for all future affordable housing units built in pursuant to the city’s Affordable Housing Production Program.<sup>106</sup>
- The Legal Aid Bureau of Maryland’s Affordable Housing Preservation Project works with tenants in multifamily properties that are deteriorating or at risk of losing their subsidies to help them secure safe and decent homes, stabilize the property and improve conditions in the community. Where owners are restructuring their loans, tenants have significant opportunities to obtain improvements to the property. When an owner decides to sell a property, staff works with a tenant group to try to find a purchaser who would retain its affordability. Staff works to ensure that tenants displaced by subsidy termination receive all of the benefits available to them to minimize the harm from displacement and to increase their chances of finding housing in comparable neighborhoods. Staff also works with the tenants to achieve community improvements such as better day care, community centers, and school situations.
- Community Legal Services worked with Philadelphia City Council to shape, enforce, and expand programs to help homeowners with property taxes, including programs that benefit elderly people who are homebound, ill, or who do not speak or read English well. Their advocacy worked to ensure that low-income homeowners were provided a fair opportunity to enter into affordable payment agreements and save their homes.<sup>107</sup>

Political scientist Beth Harris examined some of this systemic housing-related work in her 2004 book, *Defending the Right to a Home: The Power of Anti-Poverty Lawyers*. By analyzing a series of cases brought by legal services attorneys in the late 1980s and early 1990s, she found that antipoverty lawyers could successfully change policy and practice because of their ability to

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105 <http://www.gbls.org/impact-advocacy/housing>

106 See Western Center on Law and Poverty, Annual Report 2014, available at: [http://www.wclp.org/DesktopModules/IndooGrid/binaryResponse.aspx?&\\_bfa=4YvHEvO-uguQFDIJ7BUfd6whu8DQmznzFLya6yTVitv\\_MY7YhRHCcn7IbMKw3PqpvTNvDaKSOP76MqkE\\_koUGejo24P8Qt0Yaj\\_ehAG5mze1BjwNcXmkeFB\\_sUVNLt5j5aYKYS-XvHf3Y8kpXKTwxHHtrgNz-BjIX3TdW9ITbFCQ&\\_surlid1=1156767708&\\_surlid2=832980123648&\\_surlid3=MgAwADEANAAAtADAANgAtADIAMwAgADAAOQA6ADMANgA6ADMAMABaAA&gv5060\\_biall=FYe6FpWEyeem3SBdJt6oFhZimCNYRi1BphnTQlXXabs&gv5060\\_bii=RpRSyU8FoQ-UPPhCH8\\_DwA&tabid=1425](http://www.wclp.org/DesktopModules/IndooGrid/binaryResponse.aspx?&_bfa=4YvHEvO-uguQFDIJ7BUfd6whu8DQmznzFLya6yTVitv_MY7YhRHCcn7IbMKw3PqpvTNvDaKSOP76MqkE_koUGejo24P8Qt0Yaj_ehAG5mze1BjwNcXmkeFB_sUVNLt5j5aYKYS-XvHf3Y8kpXKTwxHHtrgNz-BjIX3TdW9ITbFCQ&_surlid1=1156767708&_surlid2=832980123648&_surlid3=MgAwADEANAAAtADAANgAtADIAMwAgADAAOQA6ADMANgA6ADMAMABaAA&gv5060_biall=FYe6FpWEyeem3SBdJt6oFhZimCNYRi1BphnTQlXXabs&gv5060_bii=RpRSyU8FoQ-UPPhCH8_DwA&tabid=1425).

107 See MIE Journal, “Statutory Solution: Helping Low Income Homeowners in Philadelphia Save their Homes from Municipal Property Tax”, Spring 2014, page 43.

frame tenable claims that defendants (often public agencies) have failed to perform legal duty owed to plaintiffs (poor people). It is not only appeals court or Supreme Court decisions that matter, she found, because trial court actions can also “influence official actors to negotiate policy alternatives in order to prevent further costly legal challenges to their policymaking authority.” She finds that “under certain conditions, by transforming politically and economically marginalized social groups into legal subjects, advocates can mobilize protection from repressive governmental interventions and leverage redistributive benefits. The leverage provided by the establishment of judicial oversight over official practices can be sustained even if prior to litigation there has been little support from third parties with political clout, and the litigation fails to enhance the collective power of the legal subjects to develop their own oppositional movement.” Notably, Harris found that the single most important component of antipoverty lawyers’ power may have been their penetration, or infiltration, of the agencies they sued. When lawyers become involved in rule making, implementation, and norm changing within an agency, they have long-range influence that goes beyond the named plaintiffs or even the class of plaintiffs in a particular suit. The cases that achieved longest term relief, she found, were those in which plaintiff’s representatives most actively participated in internal agency activities.<sup>108</sup>

### *Foreclosure*

Many civil legal aid programs engage in foreclosure representation.<sup>109</sup> Some focus on systemic problems and solutions:

- Community Legal Services worked with other public interest organizations and the local court to set up a special program which forces negotiation between debtor and lender before a mortgage foreclosure can occur. Community Legal Services started this work by pushing for a moratorium on sheriff sales of homes, an event accomplished many years ago when there was a surge in mortgage foreclosures. With the 2008 recession, the local Court instead proposed the institution of the diversion court which has saved the homes of many low income families facing foreclosure, helping them obtain financial assistance available through various programs, and forcing the lender to pay attention to the homeowner’s rights and situation.
- Land of Lincoln Legal Assistance Foundation, Inc. is collaborating with courts to develop foreclosure mediate rules and programs.
- In 2014, The Western Center on Law and Poverty, along with Bay Area Legal Aid, Alborg, Martin & Budde LLP, and Jenner and Block, won a significant victory for tenants in homes in foreclosure—a victory with national implications. , In response to their litigation, the California Court of Appeal “held that (1) bona fide leases survive foreclosure under the federal Protecting Tenants at Foreclosure Act (PTFA); (2) tenants in illegally converted garage units are protected under the PTFA; and (3) state law claims may be brought to enforce the PTFA.”<sup>110</sup>

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<sup>108</sup> Review of Harris, *Defending the Right to a Home*, by Florence Roisman, “How Litigation Can Lead to Substantial Relief for Clients and Significant Social Change” *Clearinghouse Review* 38 (2004-2005).

<sup>109</sup> The need for foreclosure representation is laid out in a 2009 publication of the Brennan Center for Justice, *Foreclosures: A Crisis in Legal Representation* by Melanca Clark and Maggie Barron.

<sup>110</sup> See

<http://www.wclp.org/Resources/WCLPContent/tabid/1088/smld/3613/ArticleID/967/refTab/1035/t/Major->

- Greater Boston Legal Services has been involved in litigation to protect Massachusetts families facing foreclosure. As GBLs explains on its website, “In *U.S. Bank v. Ibanez*, GBLs attorneys were part of the legal team that challenged the bank’s right to foreclose on the grounds that the bank did not have proper assignment of the mortgage prior to foreclosure. In January 2011, the Massachusetts Supreme Judicial Court ruled against foreclosing lenders, upholding a lower court’s decision that the two banks involved in the Ibanez case did not hold proper title to the property prior to the foreclosure and therefore did not have standing to foreclose. The Court held that back dated assignments and assignments in blank were not sufficient to show the bank held the mortgage prior to the foreclosure. The ruling has broad implications for foreclosures in Massachusetts as well as nationally. GBLs’ goal in representing Mr. Ibanez was to create more safeguards for homeowners in the foreclosure process and ensure compliance with Massachusetts foreclosure law.”<sup>111</sup>
- The Shriver Center successfully advanced legislation to ensure that homeowners at risk of foreclosure have a real chance to use loan modification programs before losing their homes. They also successfully advanced laws to protect tenants living in foreclosed properties so that they have crucial foreclosure information, adequate time to move, and access to their security deposits.
- Advocates for Basic Legal Equality (ABLE) in Ohio and Legal Aid of Western Ohio provided assistance to homeowners at risk of losing their home to foreclosure through the Homeownership Preservation Project (HOPP). HOPP focuses its casework on achieving outcomes of financially sustainable, long-term homeownership for families. In addition to a high volume of individual representation in foreclosure cases, HOPP also focuses on developing and litigating cases to effectuate systemic change and produce relief for a large number of homeowners. The project has aggressively litigated issues surrounding the failure of lenders to comply with the federal Home Affordable Modification Program (HAMP) mortgage modification requirements and with FHA loss-mitigation rules, including several cases argued in the Ohio Appellate Courts. The Project also provides support and assistance to private pro bono attorneys who represent homeowners in foreclosure. In 2012, ABLE’s work resulted in over \$375,000 in home equity retained, over \$425,000 in interest rate savings, more than \$325,000 in debt write-off, and over \$220,000 in reduced principal, arrearages, fees and penalties. In all, the Project saved more than \$1.3 million for its clients.<sup>112</sup>

### *Employment*

Though there is little scholarly research on legal services organization’s employment related work, and employment cases make up a relatively small percentage of the caseload of

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[Supreme-Court-Victory-for-Innocent-Tenants-Caught-in-Foreclosures/Default.aspx?&dnnprintmode=true&SkinSrc=%5BG%5DSkins%2F\\_default%2FNo+Skin&ContainerSrc=%5BG%5DContainers%2F\\_default%2FNo+Container](http://www.gbls.org/impact-advocacy/consumer-rights?&dnnprintmode=true&SkinSrc=%5BG%5DSkins%2F_default%2FNo+Skin&ContainerSrc=%5BG%5DContainers%2F_default%2FNo+Container)

111 See <http://www.gbls.org/impact-advocacy/consumer-rights>.

112 Document on file with Alan Houseman.

LSC-funded organizations (3.0% in 2013<sup>113</sup>), significant law reform work involves employment-related problems. Legal aid organizations across the United States have worked to help clients overcome barriers to work, including transportation barriers such as suspended drivers' licenses.<sup>114</sup>

In the last several years alone:

- Neighborhood Legal Services of Lynn, Massachusetts designed a job-training program to help move vulnerable workers to demand occupations.<sup>115</sup>
- Delaware County Legal Assistance Association in Chester, Pennsylvania worked with community based organizations to leverage “government funding to create work-force development programs targeting individuals with multiple barriers to employment.”<sup>116</sup>
- A lawsuit filed by the Western Center on Law and Poverty led California to expand eligibility to training and employment opportunities through CalWORKS to 58,000 families who had previously been barred from the services.<sup>117</sup>
- A Columbia Legal Services fellow worked with clients and other allies to persuade the Seattle City Council to adopt the Construction Careers Targeted Local Hire resolution. The resolution established a stakeholder committee to make recommendations to City officials on how to increase living wage construction jobs and related training for workers of color, women, and other individuals from disadvantaged communities.
- Community Legal Services sued a large commercial background screener under the Fair Credit Reporting Act for reporting expunged cases to employers and other customers. In addition to correcting the screener's practices and getting damages for class members

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113 From Legal Services Corporation 2013 Fact Book, available at: <http://lsc.gov/about/lsc-fact-books/about-legal-aid/lsc-numbers-2013> at p.19.

114

See David Pifer and James A. Gramling, “Driving Out of Poverty: A Lawyer’s Role in Driver-License Restoration,” *Clearinghouse Review* 43, no.1-2 (May-June 2009), 14-19. On accessing transportation, and helping meet clients other employment needs, see Nona Liegeois, Francisca Baxa, and Barbara Corkrey, “Helping Low-Income People Get Decent Jobs: One Legal Services Program’s Approach,” about the work of the Legal Aid Foundation of Los Angeles, *Clearinghouse Review*, 27 (November 1993, 279-292.

115 Scott L. Cummings and Gregory Volz, “Toward a New Theory of Community Economic Development,” *Clearinghouse Review* 37, no. 3-4 (July-August 2003), 161.

116 Scott L. Cummings and Gregory Volz, “Toward a New Theory of Community Economic Development,” *Clearinghouse Review* 37, no. 3-4 (July-August 2003), 161.

117 See Western Center for Law and Poverty 2014 Annual Report, available at: [http://www.wclp.org/DesktopModules/IndooGrid/binaryResponse.aspx?&\\_bfa=4YvHEvO-uguQFDIJ7BUfd6wuhu8DQmnzflYa6yTVitv\\_MY7YhRHCcn7IbMKw3PqpvtNvDaKSOP76MqkE\\_koUGejo24P8Qt0Yaj\\_ehAG5mze1BjwNcXmkeFB\\_sUVNlt5j5aYKYs-XvHf3Y8kpXKTwxHHtrgNz-BjIX3TdW9ITbFCQ&\\_surlid1=1349941731&\\_surlid2=275273154560&\\_surlid3=MgAwADEANAAAtADEAMAAtADIANgAgADEAOAA6ADQANgA6ADIANABaAA&gv5060\\_biall=FYe6FpWEyeem3SBdJt6oFhZimCNYRi1BphnTQlXXabs&gv5060\\_bii=RpRSyU8FoQ-UPPhCH8\\_DwA&tabid=1425](http://www.wclp.org/DesktopModules/IndooGrid/binaryResponse.aspx?&_bfa=4YvHEvO-uguQFDIJ7BUfd6wuhu8DQmnzflYa6yTVitv_MY7YhRHCcn7IbMKw3PqpvtNvDaKSOP76MqkE_koUGejo24P8Qt0Yaj_ehAG5mze1BjwNcXmkeFB_sUVNlt5j5aYKYs-XvHf3Y8kpXKTwxHHtrgNz-BjIX3TdW9ITbFCQ&_surlid1=1349941731&_surlid2=275273154560&_surlid3=MgAwADEANAAAtADEAMAAtADIANgAgADEAOAA6ADQANgA6ADIANABaAA&gv5060_biall=FYe6FpWEyeem3SBdJt6oFhZimCNYRi1BphnTQlXXabs&gv5060_bii=RpRSyU8FoQ-UPPhCH8_DwA&tabid=1425).

who were hurt, Community Legal Services learned best practices for avoiding this problem, which probably affects most large screeners and which undermines the whole concept of expungement. Advocacy included getting state courts that sell data to the screening industry to provide lists of expunged cases to be removed from their databases.

Following from the “community lawyering” model that some organizations embrace, legal services attorneys have worked with non-profits and their clients to create new jobs, improve existing jobs, and help clients learn about and train for new work opportunities. In this vein, the Legal Aid Foundation of Los Angeles has helped non-profits that intend to employ area residents by reviewing internal documents for tax purposes, and by linking them to small business development centers and lenders; it has also helped clients start microbusinesses. LAFLA represented a local community based organization in south central Los Angeles, Action for Grassroots Empowerment and Neighborhood Development Alternatives (AGENDA), in a campaign to get the city to attach conditions, including job training, job access, and community participation, to a subsidy package the city was offering for a large development. In the course of its representation, LAFLA advised AGENDA on state law, drafted requests for public records, and drew up sample language for first-source hiring requirements, living wage requirements, and other conditions. LAFLA also worked with another community based organization, the Alameda Corridor Jobs Coalition, to ensure a transportation project created local jobs. After ensuring the project would train and hire local residents, ACJC realized that many residents would not be eligible because they did not possess a valid California driver’s license, which was a condition of job training and placement. Many low-income residents had had their licenses suspended or revoked for failure to appear and pay tickets and/or child support amounts they could not meet. A LAFLA attorney counseled residents on the procedure for having their licenses reinstated.

Greater Boston Legal Services, meanwhile, has worked with community groups to lobby both for paid sick days and parental leave and to strengthen wage laws.

- As they describe their paid sick days and parental leave effort on their website: “In an effort to ensure that workers do not have to choose between their jobs and their health (or that of their families), the GBLS Employment Unit represents New England United for Justice (NEU4J) and the Coalition Against Poverty, coordinating the [Massachusetts Paid Leave Coalition](#) in a legislative campaign to pass a bill (“An Act Establishing Paid Sick Days”) that would secure up to 7 paid sick days for workers in Massachusetts”<sup>118</sup>
- As they describe their wage law work on their website: “The Employment Unit engages in both legislative and administrative advocacy to strengthen the wage laws and their enforcement, in order to protect workers who have been victims of “wage theft.” The Employment Unit represents and works closely with the immigrants’ and workers’ rights community-based and advocacy organizations that are members of the Massachusetts Fair Wage Campaign coalition. This coalition meets regularly with the Office of the Attorney General’s Fair Labor Division and the U.S. Department of Labor’s Wage and Hour Division. We advocate for ongoing changes to strengthen wage enforcement, including improved access to wage enforcement for immigrant and limited English proficient workers, strategic or systemic enforcement with particular employers or in

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118 See <http://www.gbls.org/impact-advocacy/employment>

particular industries, the use of new tools and approaches for decreasing employer retaliation against workers, and prioritization of cases important to particular communities or groups. In the legislative arena, the Employment Unit represents members of the Massachusetts Fair Wage Campaign in an effort to pass a bill (“An Act Establishing Uniform Wage Compliance and Recordkeeping”) that would strengthen the wage laws by extending the statute of limitations for minimum wage and overtime claims from two years to three years and that would toll the statute of limitations on wage claims while complaints are pending with the Office of the Attorney General. We also engage in legislative advocacy to defend against efforts to weaken the Massachusetts wage laws by decreasing damages available to workers or exempting employers from coverage under the wage laws. The Employment Unit also submits *amicus* briefs on behalf of community-based organizations in important appellate cases affecting the wage rights of low-wage workers, including recent cases involving employer deductions from wages and the damages available to misclassified janitorial workers under the Massachusetts independent contractor law.”<sup>119</sup>

### *Health Care*

A number of civil legal aid programs advocated for the expansion of Medicaid after the enactment of the Affordable Care Act.

- Community Legal Services worked with a diverse coalition, providing expertise around the impact of proposals on existing Medicaid recipients. The coalition engaged Center for Medicaid Services, state legislators, and the press, and organized opposition through the public comment process. Medicaid was expanded and 20 out of 24 troublesome waiver requests, including recipient work requirements, were denied by the federal government as a result of this work. Community Legal Services continues to work to limit the harm caused by the four waivers that were approved.
- The Shriver Center conceived, carried through, and continues to promote a campaign, which expanded Illinois residents' eligibility for Medicaid and provided health care coverage for 400,000 working parents.
- The Legal Aid Society of Greater Cincinnati has prioritized expanded health care access and options around the Affordable Care Act, and its advocacy has successfully included: simplification and modernization of Medicaid reducing some 150 categories of eligibility into three, and streamlining of the eligibility determination process; the Medicaid expansion; adoption of a state-run exchange, or marketplace (the Kasich administration chose to adopt a federal exchange instead); Improved care coordination, integration of mental and physical health care in one care center, and other delivery system and payment reform, such as adoption of patient-centered medical homes and episodes of care, to improve the quality of care while reducing cost; adoption of a Basic Health Plan, a Medicaid-like program for those with incomes between 138-200% FPL. Along with ACA implementation work, the Legal Aid Society of Greater Cincinnati advocated for statewide adoption of strategies for outreach and enrollment of eligible persons into Medicaid and, as a result over 3000 children and hundreds of parents were enrolled in Medicaid.

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119 See <http://www.gbls.org/impact-advocacy/employment>

One of the unique efforts on health care law is the Health Consumer Alliance (HCA), a partnership of consumer assistance programs operated by eleven community-based legal services organizations in California that includes both LSC and non-LSC funded programs. Since opening its doors in October 1998, HCA has helped more than 128,000 consumers with health access problems. In 2012, HCA expanded statewide in a partnership with the Department of Managed Health Care to provide comprehensive, local, one-on-one assistance to individuals and families struggling to navigate the complex health care system. HCA's local Health Consumer Centers serve consumers in all 58 California counties. They are supported in this work by the National Health Law Program, and the Western Center on Law and Poverty. HCA views the stream of low-income consumers coming to its doors as an important opportunity to diagnose systemic health access issues. The diagnosis is aided by a database system that collects uniform, comprehensive information about the problems consumers bring to HCA and the results achieved. HCA provides the objective data needed to discern the extent to which problems are truly systemic, and then works collaboratively with other stakeholders to seek effective solutions to the problems consumers experience.<sup>120</sup>

### *Children*

A number of civil legal aid programs run a variety of programs to expand educational opportunity:

- Land of Lincoln Legal Assistance Foundation runs an Educational Advocacy Project, which uses volunteers and staff to improve the education outcomes of children living in an extraordinarily troubled school district.
- The Homeless Education Project conducted by Columbia Legal Services, described above, is addressing the problem of homeless students by trying to have money designed for homeless education supports be used to help provide housing for homeless families. Columbia Legal Services is seeking to make the money school districts get for transportation of homeless students (sometimes a long distance at great cost) to prevent frequent school changes available for rent subsidies that would obviate the need for expensive transportation services. The Project's goal is to demonstrate that when schools have the option of housing homeless families, they save money, contribute to ending family homelessness, and encourage the educational continuity and academic success of homeless students.
- The Legal Aid Society of Greater Cincinnati has developed several Education Advocacy initiatives to support school success. Team Child serves youth caught up in the Juvenile Justice System, Kids in School Rule! focuses on children in foster care and promotes individual education stability and success for youth in the custody of Hamilton County Jobs and Family Services who attend the Cincinnati Public Schools as does the Collaboration for Education Success of Children in Foster Care. An important component of these initiatives is the integration of legal advocacy with effective collaboration with schools and public systems that also impact a student's educational outcomes.

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120 See Health Consumer Alliance <http://healthconsumer.org/index.php?id=about>

- Just Children, a program of the Legal Aid Justice Center in Charlottesville, Virginia (LAJC) used publicly available Department of Education data to track statewide testing rates as compared to graduation rates in specific schools. The data showed that, as pass rates went up, graduation rates went down. This analysis indicated that students who tested poorly were dropping out and thus not represented in the data at all, raising the specter of whether schools encouraged transfer or drop out for students who were not testing well. An investigation revealed many systemic issues regarding students who were struggling, particularly students of color. The staff of Just Children wrote and released reports about the data and investigation, testified at Department of Education hearings and demanded accountability from local education departments in tracking graduation rates, not just test passage rates. As a result of LAJC’s advocacy, the practice of “giving up” on students who do not test well so that they drop out, leave the school district, or otherwise disappear from the data indicating school achievement was exposed.
- Legal Services of Northern California filed a complaint with the California Department of Education on behalf of parents of English-Language Learner students whose remediation services were being canceled in the Winters Joint Unified School District. In response, the school district adopted a new program which was implemented last year.

### *Domestic Violence*

Most civil legal aid programs provide representation to victims of domestic violence, described above. A number also focus on more systemic issues. For example, the Shriver Center created the Safe Home Initiative which protects the housing rights of survivors of domestic violence, dating violence, sexual assault, and stalking. Through this initiative, laws were changed to protect survivors from threatened evictions and to allow survivors to end rental leases early when threatened with violence.

### *Predatory Lending*

Community Legal Services organized and worked with a coalition of faith based, veterans and other groups to oppose legislation which would legalize payday lending in Pennsylvania.

<sup>121</sup>Ongoing education of the legislature and use of the press has so far staved off a well-funded effort to legalize this destructive practice.

Columbia Leal Services worked with a coalition of low-income and consumer advocates to prevent the creation of a new “payday”-type loan instrument in Washington. This loan product would have replicated the “debt-trap” inherent in payday loans. Given the impact of the Great

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<sup>121</sup> Payday loans allow consumers pay the bills until their paychecks arrive. In return for a loan the consumer provides the lender a post-dated check for the amount borrowed plus a fee. The check is held for one to four weeks (usually until the customer’s payday) at which time the customer redeems the check by paying the face amount or allowing the check to be cashed. Marketed as a way to help consumers pay the bills until their paychecks arrive, payday loans trap consumers in terrible cycles of debt, dragging their families more deeply into financial crisis. Payday lenders encourage their customers to get on a debt treadmill by refinancing one payday loan with another. The fees for payday loans are exorbitant with effective interest rates that can top 1,000 percent.

Recession on low-wage working communities, passage of the new, untested loan product would have likely exacerbated the financial instability in these communities.

### *Racial Justice Work*

It is often difficult to disentangle poverty and race. In the United States, poverty is racialized, and, as theorist John A. Powell has observed, both being poor and being non-white leads to social exclusion and a lack of belonging. Albert Alesina and Edward L. Glaeser have found that race is the “single most important factor in understanding societal structures and the resulting disparities, as well as the anemic ability of our democratic system to address poverty.”<sup>122</sup> Legal services offices across the country have tried to address the complex problems resulting from racial and economic exclusion, and racial justice is an explicit focus of some legal services programs’ work.

Since 2007, for example, Legal Services of Northern California has represented the Avondale/Glen Elder Neighborhood Association in meetings with the community and Sacramento city Council and in administration litigation before the California Public Utilities Commission to block a petroleum corporation’s proposal to store explosive and potentially toxic natural gas beneath 700 homes in a low-income community of color. The Public Utilities Commission has denied the corporation’s permit application, and case is open for LSNC to pursue collection of its fees.<sup>123</sup>

Advocates for Basic Legal Equality works to facilitate economic empowerment in low-income and minority populations by bringing wealth to communities, creating jobs, and broadening economic equality for historically disadvantaged groups. Through its Microenterprise Legal Assistance Project, ABLE provides both brief advice and extended legal services to entrepreneurs who cannot afford an attorney. Pro bono attorney volunteers also provide free legal advice through business legal clinics organized through Legal Aid of Western Ohio’s Pro Bono Program.

Some legal services organizations’ engagement with the criminal justice system reflects an underlying concern about racial justice.

### *Criminal Justice*

A number of legal services organizations are currently working at the intersection between poverty and the criminal justice system. They are interested in ameliorating the impact

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<sup>122</sup> Described in John A. Powell, “Poverty and Race Through a Belongingness Lens,” *Policy Matters* 1, no. 5, (April 2012) Northwest Area Foundation, available at: <http://www.nwaf.org/content/uploads/oldsite/FileCabinet/DocumentCatalogFiles/Other/PMpowell.pdf>.

<sup>123</sup> See “Impact Advocacy of Legal Services of Northern California,” June 2014.

imprisonment has on families and communities and addressing the collateral consequences of having a criminal record.

In the wake of the riots in Ferguson, Missouri in August, national attention has turned to the problems raised by overzealous municipal police forces—and especially the problems raised by those forces whose primary reason for being appears to be to support municipal coffers. As part of a larger discussion of police relations with the community, the press has drawn attention to how heavy fines for traffic violations and the like entangle the poor in the criminal justice system when those fines go unpaid.<sup>124</sup> Though these issues are newly in the national spotlight, legal services organizations have been working on these questions for years. For example:

- Columbia Legal Services has an ongoing project on legal financial obligations, which include, as they describe it, “restitution and court and supervision fees.” As they explain, “Many former prisoners who have served several years or more in prison return to society with very large LFO debts, and failure to pay these debts can lead to a return to prison. During 2013, Columbia Legal Services continued the state’s first LFO Legal Clinic for former prisoners to learn their rights and deal with their LFO’s.” Successfully dealing with legal financial obligations gives former prisoners a better chance at reintegrating into their communities.<sup>125</sup>
- Land of Lincoln Legal Assistance Foundation, Inc., has also recently worked in this field of “Debtor’s Prison Advocacy,” and they lobbied for new legislation regulating creditor practices.
- Community Legal Services has been advocating with the local courts and the Mayor’s office to bring rationality to its recent attempts to collect old criminal court debts from indigent city residents, frequently ex-offenders struggling to reenter. These outstanding judgments prevent people from obtaining criminal record expungements and pardons and can hurt immigration proceedings and employment. Community Legal Services represented people and got individual debts reduced or forgiven and payment plans instituted. In 2013, as a result of years of advocacy, the courts wrote off all old bail debts prior to 2010, eliminating a billion dollars’ worth of old debts.

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124 See, for example, Radley Balko, “How municipalities in St. Louis County, Mo., profit from poverty,” *The Washington Post*, September 3, 2014, available at: <http://www.washingtonpost.com/news/the-watch/wp/2014/09/03/how-st-louis-county-missouri-profits-from-poverty/>.

125 For Columbia Legal Services’ report, see “Modern Day Debtor’s Prison: How Court-Imposed Debts Punish Poor People in Washington,” co-authored by Columbia Legal Services and the ACLU of Washington, available at: <http://columbialegal.org/sites/default/files/ModernDayDebtorsPrison.pdf>. On the wave of interest in the problems these process-related fees pose for the poor, see the ACLU’s blog posts on the subject: <https://www.aclu.org/blog/tag/debtors-prisons>; Alexes Harris, “Yes, America, We Have Returned to Debtor’s Prison,” *Los Angeles Times*, June 6, 2014, available at: <http://www.latimes.com/opinion/op-ed/la-oe-harris-criminal-fines-20140608-story.html>; and Sarah Stillman, “Get Out of Jail, Inc.: Does the Alternatives-to-Incarceration Industry Profit from Injustice?” *New Yorker*, June 23, 2014, available at: [http://www.newyorker.com/reporting/2014/06/23/140623fa\\_fact\\_stillman](http://www.newyorker.com/reporting/2014/06/23/140623fa_fact_stillman).

As some legal services organizations have considered the relationship between debt and imprisonment, others have focused helping prisoners maintain their connections to family and community life.

- Community Legal Services worked with the Philadelphia Department of Human Services and the Philadelphia Prison System to launch a pilot program that allows incarcerated parents incarcerated to be video-conferenced into all meetings regarding their children. Continued statewide advocacy aimed at improving the engagement of incarcerated parents in their child welfare cases. Community Legal Services also successfully pushed, along with its coalition partners, for statute to end shackling of prisoners during childbirth.

Some of the most effective public defenders offices are working closely with civil legal services attorneys to provide holistic representation to their clients, with the goal of improving their life outcomes—not just their case outcomes. Robin Steinberg, Executive Director of the Bronx Defenders, one of the organizations that has pioneered holistic advocacy, has written that “the movement towards holistic models of indigent defense is fueled by the diverse and pressing needs of indigent clients. With the prevalence of drug addiction, poverty, and homelessness among poor criminal defendants and with the continuing high rate of recidivism, it became clear to many rather quickly that penal sanction was alone not sufficient.” At the Bronx Defenders, social workers, civil lawyers specializing in child welfare, housing, and immigration, and youth and community outreach staff work alongside its criminal defense lawyers.<sup>126</sup>

Organizations working with juvenile defendants have begun to adopt similar models. Team Child, a model organization in Seattle, provides civil legal assistance to help children involved in the juvenile delinquency system get back into school, find safe and stable housing, get healthcare and mental health services, and access other public benefits.<sup>127</sup> Team Child in Florida represented children with criminal records to connect them to services. Their advocacy resulted in lower rearrested rates by about 45% in one location and 31% in another.<sup>128</sup> Legal services organizations in eastern Missouri and Cincinnati have similar projects focused on children in the juvenile delinquency system. While some civil lawyers collaborate with defense lawyers by working as hired staff of public defenders offices, some civil legal aid offices work closely with public defenders offices to accomplish the same goal: meeting all the legal needs of their mutual clients.

Finally, many legal services organizations are working to help people leaving prison or jail re-establish themselves in their communities. Community Legal Services in Philadelphia has long been a leader in prison reentry work. In 2002, they produced a seminal publication, *Every*

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<sup>126</sup> Robin Steinberg, “Beyond Lawyering: How Holistic Representation Makes for Good Policy, Better Lawyers, and More Satisfied Clients,” 30 N.Y.U. Rev. L. & Soc. Change 625, available at: <http://www.bronxdefenders.org/wp-content/uploads/2013/05/BEYOND-LAWYERING-HOW-HOLISTIC-REPRESENTATION-MAKES-FOR-GOOD-POLICY-BETTER-LAWYER.pdf>.

<sup>127</sup> See [http://www.teamchild.org/index.php/whatwedo/130/legal\\_service\\_for\\_youth/](http://www.teamchild.org/index.php/whatwedo/130/legal_service_for_youth/).

<sup>128</sup>

Laura K. Abel and Susan Vignola, “Economic and Other Benefits Associated with the Provision of Civil Legal Aid” Seattle Journal for Social Justice

*Door Closed: Barriers Facing Parents with Criminal Records*,<sup>129</sup> and have led national advocacy on this issue since. Other programs are engaged as well. For example:

- The Legal Services of Northern California is currently working with housing authorities in Solano County to encourage them to revise policies that make it difficult for former prisoners to attain affordable housing. LSNC also helps former prisoners clear their criminal records, which for many is an indispensable step to finding employment.<sup>130</sup> In most cases, people must “check a box” on employment applications if they have any criminal record, which often means they cannot get a job, no matter how old or how minor the crime.
- Columbia Legal Services has also worked to alleviate the barriers criminal records pose to finding work. A Columbia Legal Services attorney collaborated with a Seattle City Council Member and persuaded to City Council to unanimously enact a new City Code provision that prevents employers in most cases from asking about criminal records at the outset. Employers can still find out about criminal history before hiring, but only later in the process so that people will be judged first on their qualifications. Other jurisdictions are now considering enacting similar legislation. In addition to the employment work, Columbia Legal Services has worked at both the local housing authority level and the federal administrative level for fair rules limiting use of criminal records to deny housing opportunities.

### *Immigration and Language Access*

In June 2012, the Obama Administration created a Deferred Action for Childhood Arrivals (DACA) program which provides for temporary lawful presence in United States for undocumented individuals who were under 31 years of age as of June 15, 2012, who came to the U.S. while under the age of 16, and who have continuously resided in the U.S. since June 15, 2007. Individuals must also be in school or have graduated from high school, obtained a GED or have been honorably discharged from the armed forces, and have no significant criminal background. In 2012 Advocates for Basic Legal Equality in Ohio represented 19 individuals in filing for Deferred Action under this program; nine have been approved and ten are still pending. DACA approval is extremely significant; grantees are protected from removal (deportation) for two years (with the possibility of future extensions), are now eligible for work authorization, and may openly participate in and continue to contribute to our communities, which for most of these individuals has been the only home they have ever known.

Community Legal Services Language Access project pushes local and state organizations interacting with poor Pennsylvanians to adopt language access policies and implement them effectively. In response to its advocacy, the Philadelphia Housing Authority Board of Commissioners adopted a language access policy in November 2013. Under the policy, PHA will begin routinely identifying the need for and providing appropriate language services in the

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<sup>129</sup> See Amy E. Hirsch et al., *Every Door Closed: Barriers Facing Parents with Criminal Records*, (2002) available at: <http://www.clasp.org/resources-and-publications/archive/0092.pdf>.

<sup>130</sup> On the problems people with criminal records have finding jobs, see <https://www.ncjrs.gov/pdffiles1/nij/238488.pdf>

form of bilingual staff, interpretation, and translated documents to ensure effective communication with limited English proficient applicants, residents and housing voucher holders. Community Legal Services has also successfully advocated for legislation guaranteeing interpreters in court proceedings. CLS has convinced the state judiciary to budget about half of what it needs to provide interpreters, and is currently pushing the state to fully include language services in its budget.

### *Bureaucratic Disentitlement*

Civil legal aid programs have focused on the problems posed by social services bureaucracies and their delay in providing benefits to those eligible. Several recent examples of current work illustrate the ongoing problem and the kind of systemic advocacy that is needed to respond.

- Community Legal Services in Philadelphia responded to a number of cases of inappropriate processing of information by the Department of Public Welfare, whereby benefits were terminated or denied improperly. Often, the problems were caused, in part, by computer default settings, which automatically terminated benefits without review by staff. In one example, large numbers of elderly and disabled clients saw the termination of their Medicaid in-home long term care services because renewals were either not being processed on time or were being processed incorrectly. A number of these clients were in their late 80s or 90s, and were left with no aide to help them with basic needs like dressing and preparing food. CLS was also approached by aides who were working but not receiving pay because of terminations. As a result of CLS's advocacy, DPW agreed to increase staffing and put protections in place to ensure that appeals are timely processed and benefits continued. In another example, CLS sought to rectify problems posed by a massive "review" of Medicaid cases that resulted in 150,000 Pennsylvanians being purged from the rolls, largely for "failure to verify" eligibility. Community Legal Services saw many cases where those terminated held receipts showing repeated attempts to submit the necessary verification without success. Community Legal Services and pro bono co-counsel threatened litigation and entered into negotiations which led to the reinstatement of thousands of recipients. Community Legal Services continues to monitor the verification and termination processes.
- In 2012, Advocates for Basic Legal Equality began monitoring the implementation of a consent decree entered in *Ability Center of Greater Toledo v. Colbert*, a federal court lawsuit challenging the illegal delays in processing applications for the Medicaid for the Disabled program. When the lawsuit was filed there were more than 22,000 pending cases in the disability determination system with an average processing time of 258 days. Under the consent decree, Ohio has committed to having a system in place that processes 90 percent of all applications within 90 days and 100 percent of all applications within 120 days from the date of application. More than 16,000 individuals have been made eligible for Medicaid pursuant to the consent decree.

### **Forthcoming Research**

Wide-ranging research currently being conducted will tell us much more about the anti-poverty effects of civil legal aid in the years to come. Academic researchers are currently studying some of the less tangible effects of civil legal aid: how legal services effect client's sense of dignity, their interest in participating in their communities, and their political engagement. Jeff Selbin, a

Professor at the University of California, Berkeley and head of the Clean Slate project of the East Bay Community Law Center, is currently researching client satisfaction and conducting focus groups to examine the impact of civil legal assistance on ex-offender's sense of dignity or full membership in society. Alyx Mark, a graduate student at George Washington University is currently studying the effect of legal services on clients' own feelings of confidence, competence, and "self-efficacy."<sup>131</sup> This work complements the growing research into the mental health of the poor, and the relationship between poverty and chronic stress and trauma.<sup>132</sup> Once published, this research will offer us a much fuller picture of how civil legal aid supports poor communities.

A number of ongoing pilot projects will also, once completed, offer new insights into whether and to what extent various levels of legal advice and representation make a difference both to case outcomes and to client outcomes.

- A pilot project in Massachusetts is currently measuring the efficacy of counsel in housing cases. As result of a collaboration of legal services programs in Massachusetts, the state recently launched a pilot project to provide legal help to people facing evictions in MetroWest and Worcester County. Funded by a \$400,000 grant from Attorney General Martha Coakley's office, the HomeCorps Homelessness Prevention Project will provide free representation to low-income tenants and landlords in Worcester Housing Court and Framingham District Court. In addition to assisting with eviction cases in court, the project aims to measure how successful its efforts are in terms of helping residents stay in their homes.
- An even larger pilot project in California is currently measuring the efficacy of counsel in a wide range of civil proceedings. Under a 2009 law, the California Judicial Council oversees ten pilot projects in seven counties, which allows for the appointment of counsel in civil cases (including housing, domestic violence, child custody, and probate guardianship cases). This pilot project is part of an effort to examine whether people involved in civil proceedings would benefit from the same sort of access to counsel currently offered people in criminal proceedings.<sup>133</sup> An evaluation of the pilots is being designed with a national advisory committee. Data is being collected with an eye toward evaluating the impact of both civil representation and court innovation. The Judicial

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<sup>131</sup> Alyx Mark, Ph.D. Candidate in Political Science, George Washington University.

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On the effects of toxic stress in children, and policies to alleviate it, see Ross Thompson and Ron Haskins, "Early Stress Gets under the Skin: Promising Initiatives to Help Children Facing Chronic Adversity" *The Future of Children*, available at: [http://futureofchildren.org/futureofchildren/publications/docs/24\\_01\\_Policy\\_Brief.pdf](http://futureofchildren.org/futureofchildren/publications/docs/24_01_Policy_Brief.pdf). On the damaging effects of early child poverty more generally, see Greg Duncan and Katherine Magnuson, "The Long Reach of Early Childhood Poverty," available at: [http://www.stanford.edu/group/scspi/ media/pdf/pathways/winter\\_2011/PathwaysWinter11\\_Duncan.pdf](http://www.stanford.edu/group/scspi/ media/pdf/pathways/winter_2011/PathwaysWinter11_Duncan.pdf)

<sup>133</sup> For a thorough discussion of the pilots see Clare Pastore, "California's Sargent Shriver Civil Counsel Act Tests Impact of More Assistance for Low-Income Litigants," 47 *Clearinghouse Review* 97 (July-August 2013).

Council will report its findings and recommendations to the Governor and the Legislature on or before January 31, 2016.<sup>134</sup>

Several other pilot projects are also underway, though none is as broad as the Massachusetts and California pilots.

- An Iowa Legal Aid pilot is looking at the effects of full civil legal assistance on women experiencing domestic violence. The types of cases are divorce, custody, child support and civil protective orders. The study is measuring whether receiving legal representation enhanced client safety, psychological well-being, positive functioning and longer-term economic self-sufficiency. The study is not randomized.
- Two pilots are being considered in New York. The first would use the pilot strategy to create a new system to deliver legal services in deportation cases to determine if lawyers made a difference in deportation proceedings before NY immigrant courts. The other project, conceived by the Vera Institute of Justice, would generate data on the costs, benefits, and efficiencies of providing legal representation to people in immigration detention.

### ***Legal Services Attorneys as Advocates Par Excellence***

Legal services attorneys not only work in coalition to help pass and implement policies to reduce poverty at the state and local level, but they can also be a crucial voice in federal deliberations over anti-poverty policy. Legal services attorneys know how policies are working on the ground and they are experts at policy implementation. When they testify before Congress or advise members on proposed legislation, they can explain how federal policies affect individuals or the hardships they might cause. Barbara Sard, at the Center on Budget and Policy Priorities, noted that legal services attorneys can be very helpful in deliberations over federal housing policy. When the Obama administration proposed increases to minimum rents in public housing, Sard recounted, the Center on Budget and Policy Priorities could run the statistics to find out how many people would be effected, but they could not tell the story about the hardship the proposed changes would cause. Only legal services attorneys who knew how the policy would play out on the ground could effectively tell that story.<sup>135</sup> Legal services attorneys cannot only help explain the likely impact of proposed regulatory or legislative changes to lawmakers in Washington, but, perhaps less intuitively, they can also play a crucial role in explaining to social scientists

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For a description of the process by which the legislation was adopted and the actual framework established by the legislation see Kevin G. Baker and Julia R. Wilson, *Stepping Across the Threshold: Assembly Bill 590 Boosts Legislative Strategies for Expanding Access to Civil Counsel*, 43 CLEARINGHOUSE REVIEW 550 (March-April 2010).

135 For the resulting report, see Barbara Sard, “President’s Proposal to Raise Rents on Some of the Nation’s Poorest Households Would Cause Serious Hardship,” March 20, 2012, available at: <http://www.cbpp.org/cms/?fa=view&id=3706>.

studying poverty what rules and regulations attach to government benefits, and how they might affect outcomes.

A less commonly observed point, but one that is nonetheless significant, is that many legal services attorneys go on to work directly in policy later in their careers. Their years practicing as legal services attorneys are formative, and they take the lessons they have learned to continue to work to reduce poverty and expand opportunity in new forums. William Klaus, a founder of Community Legal Services of Philadelphia, observed this pattern in his own organization. Many of the lawyers who had worked at Community Legal Services went on to take leadership positions in the city, he noted: "They leave with heightened sensitivity. They all become leaders. Some are teaching at [major universities]. They are highly respected advocates, top lawyers that ensure finding volunteers, so that the network spreads."<sup>136</sup>

Many of the people we interviewed who work in anti-poverty advocacy in DC got their start in legal services—including Jim Weill, the Executive Director of the Food Research and Action Center; Barbara Sard, Vice President for Housing Policy at the Center on Budget and Policy Priorities; Liz Schott, a Senior Fellow at the Center on Budget and Policy Priorities; and Rebecca Vallas, Associate Director of the Poverty to Prosperity Program at the Center for American Progress. Additional examples include Alan Houseman, former Executive Director of the Center for Law and Social Policy; Ron Pollack, Director of Families USA; and Duffy Campbell, Co-President, National Women's Law Center.

Moreover, a number of former legal aid attorneys are now in positions of significant policy and administrative authority. For example, Mark Greenberg, who worked in Jacksonville Legal Aid in Florida and then at the Western Center on Law and Poverty, is the Assistant Secretary for Policy and Planning at the Department of Health and Human Services. Vickie Turetski, who worked at Legal Services of New Jersey, is now the Commissioner of Child Support at HHS.

## Conclusions

The limitations to the existing research on the anti-poverty effects of civil legal aid are obvious. In order to understand how civil legal aid ameliorates poverty, we need to know not only how clients fare in court (their case outcomes) but also how they fare in life after their cases close (their personal outcomes). But, as scholars have routinely observed, very few studies and little data actually documents the experiences of legal services' clients after their cases have been closed.<sup>137</sup>

The reasons for this lack of information are myriad. First, and perhaps foremost, this sort of evaluation is time-consuming and expensive, involving repeated follow-up with clients months or years after their legal issue has been resolved. It is logistically difficult for researchers to collect this information, especially if clients are mobile or do not have a stable housing situation.

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<sup>136</sup> Quoted in Community Legal Services history, available at: <http://CommunityLegalServicesphila.org/about-CommunityLegalServices/history>

<sup>137</sup> Gary Bellow and Jeane Charn, "Paths Not Yet Taken: Some Comments of Feldman's Critique of Legal Services Practice," 83 Geo. L.J. 1633 (1995).

Attorneys, who may be asked to take on the task of data collection, are pressed for time, and reluctant to take on additional administrative work.<sup>138</sup> Meanwhile other organizations that might be involved with clients and have information about their circumstances after their cases close sometimes resist sharing information because they are worried about client or patient confidentiality.<sup>139</sup> Finally, and not least, many legal services programs are worried about how the data being collected might be used by critics of civil legal aid.<sup>140</sup>

These problems documenting the anti-poverty effect of civil legal aid have been around since the inception of the Legal Services Program.

A 1971 evaluation of the Legal Services Program tried to find out both whether the program was meeting the legal needs of the poor as well as whether “legal assistance in itself could be considered a weapon against poverty.”<sup>141</sup> The OEO specifically asked the authors of evaluation to produce a report:” a) describing the legal needs of the poor; b) assessing the extent to which these needs were being satisfied by the Legal Services Program; c) evaluating the ‘anti-poverty consequences’ of providing services to individual clients; d) evaluating the benefits accruing from successful legal action on behalf of classes of poor people facing similar problems, whether clients or not; e) evaluating the ‘institutional impact’ of Legal Services Project (LSP) activities; and f) defining LSP types and comparing their effectiveness in each of the preceding respects.”<sup>142</sup> Evaluators found, however, that “the percentage of cases to which price tags could be attached” was relatively low, and it was hard to estimate the anti-poverty effect of legal services attorneys

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138 Some researchers have begun to make better use of datasets that do not require attorneys to gather data. See Laura K. Abel and Susan Vignola, “Economic and Other Benefits Associated with the Provision of Civil Legal Aid” *Seattle Journal for Social Justice*. Abel and Vignola believe that attorney time would be well spent collecting such data, however. They note: “civil legal aid programs unable to meet the overwhelming need for assistance in their community are often reluctant to spend time compiling data regarding the effects of their work. The fear is that every hour spent on recordkeeping is an hour that could be better spent counseling a family in need of legal advice. But the data is having powerful real-world effects. For example, a 1992 study indicating that legal representation in eviction cases could save New York City millions of dollars in shelter expenses prompted the New York City Council to fund anti-eviction civil legal aid. Legislators in Arkansas, Montana, and Texas were motivated to expand the right to counsel in child welfare cases by evidence that providing parents with counsel would reduce the days that children spend in expensive foster care. Thus, the time spent on such studies is more than repaid by the funding they generate for civil legal aid.” In “Evidence-Based Access to Justice,” *University of Pennsylvania Journal of Law and Social Change*, 13, no. 3 (2009), Abel blames government and law schools for not adequately funding research in the area.

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See “Equal Justice Works AmeriCorps Veterans Legal Projects,” An Evaluation by John A. Tull & Associates, February 2013.

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See Bellow and Charn, “Paths Not Yet Taken.”

141 Fred D. Baldwin, “Evaluating the OEO Legal Services Program,” *Policy Sciences* 4 (1973): 347-364, reviewing the “Final Report: Evaluation of Office of Economic Opportunity Legal Services Program” by John D. Kettelle Corporation, prepared for OEO in 1971.

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Ibid, 349.

work. As one close reader of the evaluation put it, “How, for example, does one decide the value of a negotiated settlement which results in no reduction of a debt but eases its repayment schedule?....Merely filing a suit may have symbolic importance if it dramatizes an issue, or convinces an adversary that one’s client is serious.... It seemed clear that an economic model could incorporate only some values, not necessarily the most important, of an adversary system.” Evaluators concluded that analyzing data on case outcomes “would be complex, costly, and inherently artificial.”<sup>143</sup> They decided, in the end, simply not to collect that data.

Thus, from the start, the lack of data has proven a problem for people hoping to evaluate whether legal services attorneys were achieving their mission. Writing in 1974, Earl Johnson observed that it was “important that we not equate big lawsuits with social-economic payoff, for it is not the number of class actions filed and won that count for the poor, but the dollars received or other tangible benefits conferred.”<sup>144</sup> Johnson concluded that the Legal Services Program’s “contribution to the antipoverty goal cannot be answered nearly as easily as its role in due process justice.” People interested in the anti-poverty effect of civil legal aid lacked the data then, and we lack the data now.

## **Research Agenda**

### *Quantitative Research*

We need more data on client outcomes, not just case outcomes. Given the dearth of information, any data at all on client outcomes six months or more after their cases have closed would be helpful. While the strongest data available is in the public benefits area, where programs can track the amount of benefits received by the client served and estimate the long term impact of receiving benefits, it would still be helpful to examine what happens to the clients 4 or 6 months after the case was closed.

In virtually all other areas of legal services work, similar studies would be useful. For example, it would be helpful to do several studies comparing what happened to a) clients who won their eviction cases, b) clients who had a delay in eviction, and c) clients who were evicted. Because tenants may be treated differently in urban, suburban and rural courts and the outcomes in these settings may be different, such studies should include different courts and geographic settings.

While there is a need for more quantitative data, we need to be careful about how we generate new quantitative data. Rigorous randomized-controlled trials that consider client outcomes could tell us more about how representation impacts client wellbeing, as well as what we now consider some of the other “intangible” effects of representation.<sup>145</sup> But there are limitations to randomized studies. Not only are they expensive to administer and difficult to run (especially

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Ibid, 350-351.

144 Johnson, *Justice and Reform*, 194.

145 Steven Eppler-Epstein, “The Greiner Studies: Randomized Investigation of Legal Aid Outcomes” 46 *Clearinghouse Rev.* 43 (2012).

when follow-up surveys of clients are conducted), but they can only tell us so much about the effect of legal services on clients and communities. Rebecca Sandefur, one of the leading quantitative researchers studying civil legal aid, has observed, in a recent article with Catherine Albinston, that “by their very nature, randomized trials cannot tell us all that we need to know for meaningful evaluation of civil legal services and policy formation.” Sandefur and Albinston note in particular that in randomized trials, the absence of statistical evidence does not mean evidence of the absences of the relationship. Moreover, they observe, these trials rarely tell us about *why* representation matters.<sup>146</sup>

If we are going to use scarce resources to undertake new and expensive quantitative studies, we need to be clear about *why* we are collecting data, what we hope to use it for, and how it will help us improve programs and help poor people. Too often, advocates for more research claim benefits from the research that are not valid or empirically proven.<sup>147</sup> For example, there is virtually no evidence that rigorous studies of case outcomes or client outcomes will attract new investment by Congress and other funders of civil legal aid.

*Cost Savings Research.* To date, only the studies on “social return on investment” (SROI) or the economic benefits of civil legal aid have resulted in increased funding. They have done this by showing state legislatures how civil legal aid services bring in federal dollars to the state, save the state money, and expand economic growth in the state. The efficacy of these studies in attracting funding, however, does not mean they are without faults.

Many of the economic benefit and Social Return on Investment studies make inadequately supported assumptions in the course of describing the cost savings resulting from legal services. A classic example of an inadequately supported assertion is the assertion that a certain percentage of people who legal services attorneys saved from eviction or from having their mortgage foreclosed would have had to go into emergency housing had it not been for the legal services intervention. Because little research has been done on the number of people who resort to emergency housing in the absence of a legal services intervention, the economic benefits studies rely on a single, small, outdated study from New York State to suggest that somewhere in the neighborhood of 20 percent of homeless people resort to emergency housing.<sup>148</sup> An updated study, tracking people evicted from rental housing or mortgage foreclosure, would offer us a much more realistic picture of what actually would have happened to people evicted or whose mortgages were foreclosed. A corollary study could examine what happened to people who were not evicted.

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Catherine Albinston and Rebecca Sandefur, “Expanding the Empirical Study of Access to Justice” *Wisconsin Law Review* 2013.

147 See e.g., Jeff Selbin, Josh Rosenthal, and Jeanne Charn, “Access to Evidence: How an Evidence-Based Delivery System Can Improve Legal Aid for Low-and Moderate-Income Americans” (CAP, June 2011).

148 See New York State Department of Social Services, “The Homelessness Prevention Program: Outcomes and Effectiveness”, 1990, Table 3.2.

In order to make the methodology of the economic benefit and SROI studies more transparent, and, ultimately, more convincing, a comprehensive review and compilation of all of these studies, describing the methodology and showing the results, would be useful. We imagine this could be done relatively quickly and cheaply.

### *Qualitative Research*

Researchers today, much like evaluators in the 1970s, believe that quantitative research can only tell us so much about the anti-poverty effects of civil legal aid. As Steven Eppler-Epstein has noted, “some aspects of legal aid work—important and time-consuming though they may be—cannot be assessed through randomized studies because they are unique rather than numerous. While policy advocacy and class litigation can bring vital help to thousands of low-income clients at a time, comparing more (and less) successful policy or class-litigation approaches through randomized study likely would be difficult. We should be careful not to devalue important work simply because we cannot evaluate it through randomized study.”<sup>149</sup>

In addition to more data collection about client outcomes, we recommend five new research projects that are fundamentally qualitative in nature. As we note above, while there is only limited quantitative research on civil legal aid, there is almost no qualitative research. We will only begin to capture the full-extent of legal services’ anti-poverty impact by combining quantitative and qualitative research methods. With this in mind, we recommend five new projects:

- A comprehensive survey of, and a report about, the current work in civil legal aid that has an anti-poverty effect. While doing such a survey and report once would be helpful, it might be an activity that could be undertaken periodically by an organization such as NLADA. Such a comprehensive survey and report would build upon the work reported above and show the range and scope of current anti-poverty work.
- A review of all U.S. Supreme Court cases brought by civil legal aid attorneys over the last 50 years. As noted above, Susan Lawrence did a study of cases between 1965 and 1974, but none has been done since. And yet legal services attorneys have continued to win Supreme Court victories that have had a significant impact on the law and on the poor. For example, in 1990, the Court *decided Sullivan v. Zebley*, 110 S. Ct. 885 (1990) which opened up the eligibility for Supplementary Security Income (SSI) disability benefits for hundreds of thousands of children.<sup>150</sup>
- A review of selected State highest court decisions that have shaped critical state law and had a significant impact on the poor. Since the changes in the U.S. Supreme Court have made federal court litigation less hospitable to low-income advocates, many have turned to state courts and won major victories in state court systems throughout the country.
- A historical evaluation of the first fifteen to twenty-five years of legal services work, with the goal of charting the early law reform work of legal services attorneys and explaining

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<sup>149</sup> Steven Eppler-Epstein, “The Greiner Studies: Randomized Investigation of Legal Aid Outcomes” 46 *Clearinghouse Rev.* 43 (2012).

<sup>150</sup> See Richard Weishaupt and Jon Stein, “Supreme Court Zebley Decision will Greatly Expand Eligibility for SSI Childhood Disability Benefits and Medicaid.” Vol. 24, No.3 at 229 (July 1990).

how legal services attorneys helped turn public benefits into entitlements. While legal scholars and historians have written about some of the major Supreme Court decisions in cases brought by legal services attorneys in the 1960s and 1970s, they have paid much less attention to poverty lawyers' lower-court and administrative advocacy during these years. We need a more complete picture of the law reform work of this period, both to better understand the achievements of the past, and to paint a realistic vision for how lawyers can help reduce poverty in the future.

- A series of comprehensive case studies to document the systemic work of present-day legal services organizations. Much of the anti-poverty work that legal services lawyers are now doing goes undocumented. It is mentioned, if at all, in short blurbs in annual reports or brief descriptions in reports to funders. By closely examining the work of 5-10 legal services programs that are currently engaged in significant systemic work, this study would not only provide a much more complete picture of how lawyers are now engaged in the fight against poverty, but it would also provide lessons to legal services offices hoping to expand their anti-poverty practice, and to anti-poverty organizations interested in expanding their legal services work.

## **APPENDIX A**

### **PEOPLE INTERVIEWED IN PERSON OR BY PHONE AND/OR E-MAIL**

1. Ken Smith, The Resource for Great Programs

2. Rebecca Vallas (Associate Director) and Melissa Boteach (Director) Poverty to Prosperity Program, Center for American Progress
3. Barbara Sard (Director of Housing Policy) and Liz Schott (Senior Fellow) at the Center on Budget and Policy Priorities (CBPP)
4. Cathy Carr (Director), Sharon Dietrich and George Gould at Community Legal Services in Philadelphia
5. Colleen Cotter, Director of the Legal Aid Society of Cleveland
6. Mary Asbury, Director of the Legal Aid Society of Cincinnati
7. Jim Weil, Director of the Food Research and Action Center (FRAC)
8. Rebecca Sandefur, Faculty Fellow, American Bar Foundation and Associate Professor of Sociology and Law, University of Illinois
9. Jeff Selbin, Professor, Boalt Law School at University of California at Berkeley
10. Terry Brooks, Director of the Legal Services Division of the American Bar Association
11. John Bouman, Director of the Sargent Shriver National Poverty Law Center
12. Karen Lash, Senior Counsel, Department of Justice, Access to Justice Initiative
13. Martha Bergmark, Director Voices for Civil Justice
14. Gary Smith, Director of Legal Services of Northern California
15. Neal Dudovitz, Director of Neighborhood Legal Services of Los Angeles
16. Ada Shen-Jaffe – Seattle Law School
17. Aurora Martin, Director of Columbia Legal Services in Seattle, Washington
18. Joe Tafelski, Director of Advocates for Basic Legal Equality
19. Lois Wood, Director of Land of Lincoln Legal Services
20. Jon Asher, Director of Colorado Legal Services
21. Alyx Mark, George Washington University
22. Pam Ortiz, Director, Access to Justice Department, Administrative Office of the Courts, Maryland
23. Bonnie Hough – Administrative Office of the California Courts
24. Earl Johnson, Scholar in Residence, Western Center on Law and Poverty
25. David Udell, National Center on Access to Justice, Cardoza Law School
26. Ellen Lawton- Medical Legal Partnership
27. Greg Knoll, Director of the Legal Aid Society of San Diego
28. Amy E. Horton-Newell, Director, Commission on Homelessness & Poverty of the American Bar Association
29. Laura Able, Senior Counsel, Lawyer’s Alliance for New York
30. Peter Edelman, Professor, Georgetown University Law Center and Chair, District of Columbia Access to Justice Commission
31. Deborah Rhode, Professor, Stanford Law School
32. Russell Engler, Professor, New England Law School
33. Jo-Ann Wallace (CEO), Don Saunders (Vice President, Civil Legal Services) and Ed Burnette (Vice President, Defender Legal Services) of the National Legal Aid and Defender Association
34. Harriet Robinson, Deputy Director, Maryland Legal Services Corporation
35. Richard Zorza
36. John Tull, John Tull & Associates
37. Robert Cohen, Director, Legal Aid Society of Orange County

38. Paul Tepper (Director) and Richard Rothschild (Litigation Director) of the Western Center on Law and Poverty  
39. Olivia Golden, Director, Center for Law and Social Policy

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